

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
COMMISSIONER'S BOARD ROOM
NOVEMBER 15, 2007
9 AM**

AGENDA

INVOCATION AND PLEDGE OF ALLEGIANCE

**APPROVAL OF CHANGES TO THE AGENDA AND REMOVAL OF CONSENT
AGENDA ITEMS WITH QUESTIONS, AS REQUESTED BY BOARD MEMBERS**

I. PUBLIC COMMENT

Chairman's Statement: The Board welcomes comments from citizens about any issue or concern. Your opinions are valued in terms of providing input to the Board members. However, it is requested at the same time when you address the Board that comments are not directed personally against a Commissioner or staff member, but rather directed at the issues. This provides a mutual respect between the Board members and the public. When addressing the Board please state your name and address and speak clearly into the microphone. Three (3) minutes are allowed for each speaker.

II. CITIZEN'S ENVIRONMENTAL ADVISORY COMMITTEE

Report from the Chair – David Jellerson

III. CONSENT AGENDA

- | | |
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X. ADMINISTRATION

Present Results of the Evaluation of the Executive Director

Any person who might wish to appeal any decision made by the Environmental Protection Commission regarding any matter considered at the forthcoming public hearing or meeting is hereby advised that they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based.

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OCTOBER 18, 2007 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Environmental Protection Commission (EPC), Hillsborough County, Florida, met in Regular Meeting, scheduled for Thursday, October 18, 2007, at 9:00 a.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida.

The following members were present: Chairman Brian Blair and Commissioners Rose Ferlita, Ken Hagan, Al Higginbotham, Jim Norman, Mark Sharpe (arrived at 9:17 a.m.), and Kevin White.

Chairman Blair called the meeting to order at 9:02 a.m., led in the pledge of allegiance to the flag, and gave the invocation.

CHANGES TO THE AGENDA

Commissioner Ferlita moved approval of the changes, seconded by Commissioner White, and carried six to zero. (Commissioner Sharpe had not arrived.)

PUBLIC COMMENT

EPC General Counsel Richard Tschantz suggested comments related to the pollution recovery fund (PRF) projects be taken during that item. Ms. Denise Layne, Coalition for Responsible Growth, spoke regarding proposed changes to the EPC wetlands rule and suggested requirements be for ten years to provide assurances that land would stay agricultural. Ms. Beverly Griffiths, 7201 Alafia Ridge Road, representing the Tampa Bay Group of the Sierra Club, agreed with comments from Ms. Layne, noted concerns regarding impacts from filling small wetlands on agricultural land, and supported inclusion of municipalities on the EPC Board.

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Report from the Chairman, David Jellerson - Mr. Jellerson thanked the PRF applicants, commented on the CEAC policy for meeting attendance, and reported that if EPC Board members perceived there was justification for a CEAC member missing meetings, that member could be reappointed.

CONSENT AGENDA

- A. Approval of minutes: September 20, 2007.
- B. Monthly activity reports.
- C. PRF report.
- D. Gardinier Settlement Trust Fund report.
- E. Legal case summary.

Commissioner White moved the Consent Agenda, seconded by Commissioner Hagan, and carried six to zero. (Commissioner Sharpe had not arrived.)

EXECUTIVE DIRECTOR'S REPORT

State of the Environment Report - Dr. Richard Garrity, EPC Executive Director, highlighted a presentation on the state of the environment, as presented in background material. Commissioner Sharpe commented on the Green Armada Foundation Incorporated (Green Armada) project related to debris baskets. Commissioner Sharpe encouraged staff to meet with Green Armada representatives and noted the Public Works Department, Stormwater Management Division, was aware of the project. Dr. Garrity responded to queries from Commissioner Sharpe regarding septic tank hot spots, reclassification of the Alafia River, fluoride, air quality, and brownouts. Referencing the Alafia River reclassification, Commissioner Higginbotham asked if EPC staff had received the requested scientific data. Mr. Anthony D'Aquila, EPC staff, stated additional information had been received and more information was anticipated, confirmed staff would have time to review the information, commented on fluoride concentrations, and stated the Alafia River currently met Class III standards. Commissioner Ferlita asked to be more informed on the fluoride situation. In response to Commissioner Ferlita, Dr. Garrity said he was unsure of the fluoride concentration added to potable water but could provide that information and recalled a previous PRF funding request for debris baskets. Chairman Blair commended efforts on the report.

ADMINISTRATION

Online Application Forms Demonstration - Mr. Tom Koulianos, Director, EPC Finance and Administration, noted the hybrid plan included an online application system for permits, recalled comments that costs would be upwards of \$1 million, said EPC staff was provided training at a cost of \$1,500 and had developed the first portion of the online application system, and commented on outstanding issues related to the collection of application fees. Ms. Elaine Deleeuw, EPC staff, provided an overview of previous concerns from the public regarding applications, showed options for submitting forms, reviewed the online application process, mentioned forms to be converted, noted the pursuit of accepting online payments, and thanked staff who assisted on the project. Chairman Blair offered laudatory remarks.

Evaluation Process for Executive Director - Mr. Koulianos requested EPC Board members complete the evaluation forms and deliver those to Chairman Blair by November 2, 2007, so results could be compiled and presented at the November

THURSDAY, OCTOBER 18, 2007 - DRAFT MINUTES

2007 EPC meeting. He noted the EPC budget did not include a merit increase as with other employees.

LEGAL DEPARTMENT

Request Authority to Schedule a Public Hearing on November 15, 2007, to Amend Chapter 1-11, Wetlands Rule, and Chapter 1-12, Underground Storage Tank Rule - Attorney Tschantz reviewed the request. **Commissioner White so moved, seconded by Commissioner Sharpe, and carried seven to zero.**

Wetlands Advisory Committee Selections - Attorney Tschantz commented on the purpose of the group, stated suggested changes for future wetlands rulemaking would be considered by the group, noted the EPC Board had voted to use the CEAC as the core group with each EPC Board member being free to use their original CEAC appointee or choose another appointee, and highlighted appointee information received from EPC Board members. Chairman Blair appointed James Scarola and Roger Copp. Commissioners Ferlita and Higginbotham would use their CEAC appointees. In response to Chairman Blair, Attorney Tschantz stated the cities of Tampa, Temple Terrace, and Plant City had been notified but not yet made appointments, explained the group would meet when there was an issue to be considered, and asked that additional appointments be submitted by next week.

ENVIRONMENTAL RESOURCES MANAGEMENT DIVISION

Review and Approve 2007 PRF Projects - Mr. Tom Ash, EPC staff, provided a brief history of the program, including how PRF funds were used and projects related to pollution prevention, habitat restoration, seagrass protection, and the artificial reef program. He highlighted distribution of projects throughout the County, the PRF project review process, and staff recommendation for approval of five projects and denial of four projects. Two additional projects had recommendations for approval by EPC staff but recommendations for denial from CEAC.

Chairman Blair called for public comment. Mr. William Bissett Jr., 2625 Clark Road, distributed information on the Lake Magdalene restoration project, discussed Lake Magdalene and problems with pollutants, showed photographs of drainage pipes, referenced problems with water quality due to runoff and issues with hydrilla, highlighted the amount requested for the PRF project, and explained the project received a recommendation for approval from EPC for \$53,437 and a recommendation for denial from CEAC.

Mr. Rick Wagner, 14007 Lake Magdalene Boulevard, vice president, Lake Magdalene Special Dependent District, commented on the Lake Magdalene

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restoration project; noted commitments from members of the district, which exceeded the amount being requested from the County; and perceived outfalls helped with drainage and runoff problems.

Mr. Jellerson commented on projects recommended for denial by CEAC, stated the main factor driving the denial recommendation for the Lake Magdalene restoration project was lack of public access to the lake, said EPC staff recommended approval due to seeing an environmental benefit, and clarified reasons for recommending denial on the project related to oxygen concentrations.

Commissioner Hagan moved to approve the five projects that had recommendations for approval from both EPC and CEAC, as well as the Lake Magdalene restoration project. Regarding the Lake Magdalene restoration project, Commissioner Hagan referenced EPC staff comments on benefits to the area. **Commissioner Norman seconded the motion.** Commissioner Ferlita asked to separate the items. Commissioner Norman confirmed the motion for the Lake Magdalene restoration project was for the \$66,954. In response to Commissioner Sharpe, Mr. Jellerson clarified concerns with providing funds for a lake without public access and setting a precedent. Mr. Ash commented on the environmental benefits and explained staff had suggested reducing the funding amount due to a mosquito control component within the project, which EPC staff perceived the County mosquito control unit could handle. Attorney Tschantz responded to queries from Commissioner Sharpe regarding setting a precedent, use of public dollars for a private purpose, and benefits. In response to Chairman Blair, Attorney Tschantz confirmed EPC would monitor the project. Commissioner Sharpe stressed concerns related to the use of public dollars and the amount being requested. Dr. Garrity addressed the issue of public benefit and commented on reasons for the recommended funding amount. Commissioner Higginbotham discussed experience with and the need to control hydrilla. Commissioner Norman perceived the lake needed to be stabilized, noted the possibility for a request next year if reduced funding was provided, and discussed lake protection. Chairman Blair recalled remarks from Dr. Garrity about all water bodies eventually going into the Bay, perceived the matter was a public issue, and stressed commitments from the residents.

Commissioner Ferlita agreed there was some environmental benefit but expressed concern with access, private benefits, and setting a precedent. After stressing concerns, Commissioner Sharpe offered a substitute motion for the \$53,437. The motion died for lack of a second. **The motion for the five projects carried seven to zero.**

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Commissioner Hagan moved the Lake Magdalene restoration project for the \$66,954 requested, seconded by Commissioner Norman, and carried five to two; Commissioners Ferlita and Sharpe voted no.

Commissioner Norman moved denial of the projects recommended for denial, seconded by Commissioner Ferlita. (The motion was not voted on.) Following clarification of the motion, Commissioner Norman moved denial for the remaining 50/50 item, seconded by Commissioner Hagan, and carried seven to zero.

Commissioner Norman moved to deny the remaining items recommended for denial by both EPC and CEAC. (The motion was not voted on.) Commissioner Ferlita understood the previous vote was on the four projects recommended for denial. Commissioner Norman moved for reconsideration, seconded by Commissioner Hagan, and carried six to one; Commissioner Ferlita voted no. Commissioner Norman moved for denial of the 50/50 project, seconded by Commissioner Hagan, and carried six to one; Commissioner Ferlita voted no.

Commissioner Norman moved denial of the four projects that received recommendations for denial from both parties, seconded by Commissioner White, and carried seven to zero.

Mr. Ash clarified action taken and requested authorization for the EPC Chairman to execute the grant agreements, nonmaterial changes, and extensions in the contract. Commissioner Norman so moved, seconded by Commissioner White, and carried six to zero. (Commissioner Sharpe was out of the room.)

AIR MANAGEMENT DIVISION

Crematory Update and Request for a Public Hearing on December 13, 2007, to Amend Chapters 1-2, Administrative Rule, and 1-3, Air Pollution Rule - Mr. Sterlin Woodard, EPC staff, reviewed the location of crematories in Hillsborough County, a chronology of complaints, relaxation of permitting and operating requirements, and public meetings; summarized staff recommendations for inclusion in the rule and items reviewed but not recommended for inclusion; commented on State standards and complaints due to visible plumes and odor; and highlighted staff recommendation to give EPC staff authority to continue developing the rules and set a public hearing on December 13, 2007, to discuss the rules and amend Chapters 1-2 and 1-3 to include recommendations and provide authority to adopt State rules within the County rules. Commissioner Sharpe so moved. Commissioner Norman was interested in fixing problems but did not want to over-regulate. Mr. Woodard noted some items being considered should already be in place due to State standards and said some recommendations were not made due to not being cost effective.

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Commissioner Norman suggested efforts be made to fix on-site problems such as plumes and odor. Commissioner Ferlita expressed hope that staff was looking at tighter standards than what was already in place, but if those tighter restrictions were too onerous, she could not support that. Commissioner White supported bringing back viable solutions, recalled complaints regarding plumes, and perceived a majority of the fixes could come from operator training and maintenance. Chairman Blair agreed with comments regarding over-regulating. **Commissioner White seconded the motion, which carried six to zero.** (Commissioner Hagan was out of the room.)

There being no further business, the meeting was adjourned at 11:00 a.m.

READ AND APPROVED: _____

CHAIRMAN

ATTEST:

PAT FRANK, CLERK

By: _____
Deputy Clerk

kc

**FEES COLLECTED FOR AIR MANAGEMENT DIVISION
October FY 2008**

	Total Revenue
1. Non-delegated construction permit for an air pollution source	
(a) New Source Review or Prevention of Significant Deterioration sources	<u>\$0.00</u>
(b) all others	<u>\$0.00</u>
2. Non-delegated operation permit for an air pollution source	
(a) class B or smaller facility - 5 year permit	<u>\$0.00</u>
(b) class A2 facility - 5 year permit	<u>\$0.00</u>
(c) class A1 facility - 5 year permit	<u>\$0.00</u>
3. (a) Delegated Construction Permit for air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$1,200.00</u>
(b) Delegated operation permit for an air pollution source (20% of the amount collected is forwarded to the DEP and not included here)	<u>\$1,600.00</u>
(c) Delegated General Permit (20% is forwarded to DEP and not included here)	<u>\$240.00</u>
4. Non-delegated permit revision for an air	<u>\$0.00</u>
5. Non-delegated permit transfer of ownership, name change or extension	<u>\$0.00</u>
6. Notification for commercial demolition	
(a) for structure less than 50,000 sq ft	<u>\$2,400.00</u>
(b) for structure greater than 50,000 sq ft	<u>\$300.00</u>
7. Notification for asbestos abatement	
(a) renovation 160 to 1000 sq ft or 260 to 1000 linear feet of asbestos	<u>\$900.00</u>
(b) renovation greater than 1000 linear feet or 1000 sq ft	<u>\$4,000.00</u>
8. Open burning authorization	<u>\$800.00</u>
9. Enforcement Costs	<u>\$895.00</u>

3.	NOIs issued:	<u>0</u>
4.	Citations issued:	<u>1</u>
5.	Consent Orders Signed:	<u>3</u>
6.	Contributions to the Pollution Recovery Fund:	<u>\$3,250.00</u>
7.	Cases Closed:	<u>3</u>
D.	Inspections:	
1.	Industrial Facilities:	<u>13</u>
2.	Air Toxics Facilities:	
a.	Asbestos Emitters	<u>0</u>
b.	Area Sources (i.e. Drycleaners, Chrome Platers, etc...)	<u>1</u>
c.	Major Sources	<u>0</u>
3.	Asbestos Demolition/Renovation Projects:	<u>9</u>
E.	Open Burning Permits Issued:	<u>4</u>
F.	Number of Division of Forestry Permits Monitored:	<u>268</u>
G.	Total Citizen Complaints Received:	<u>42</u>
H.	Total Citizen Complaints Closed:	<u>41</u>
I.	Noise Sources Monitored:	<u>10</u>
J.	Air Program's Input to Development Regional Impacts:	<u>4</u>
K.	Test Reports Reviewed:	<u>57</u>
L.	Compliance:	
1.	Warning Notices Issued:	<u>4</u>
2.	Warning Notices Resolved:	<u>5</u>
3.	Advisory Letters Issued:	<u>0</u>
M.	AOR's Reviewed:	<u>22</u>
N.	Permits Reviewed for NESHAP Applicability:	<u>3</u>
O.	Planning Documents coordinated for Agency review.	<u>6</u>

MONTHLY ACTIVITIES REPORT
 AIR MANAGEMENT DIVISION
 YEAR TO DATE SUMMARY AS OF
 October FY 2008

A. Public Outreach/Education Assistance:		
1. Phone Calls:		182
2. Literature Distributed:		20
3. Presentations:		2
4. Media Contacts:		1
5. Internet:		62
6. Host/Sponsor Workshops, Meetings, Special Events		0
		<hr/>
B. Industrial Air Pollution Permitting		
1. Permit Applications Received (Counted by Number of Fees Received):		
a. Operating:		2
b. Construction:		2
c. Amendments:		0
d. Transfers/Extensions:		0
e. General:		3
f. Title V:		0
		<hr/>
2. Delegated Permits Issued by EPC and Non-delegated Permits Recommended to DEP for Approval (¹ Counted by Number of Fees Collected) - (² Counted by Number of Emission Units affected by the Review):		
a. Operating ¹ :		0
b. Construction ¹ :		3
c. Amendments ¹ :		0
d. Transfers/Extensions ¹ :		0
e. Title V Operating ² :		0
f. Permit Determinations ² :		5
g. General:		1
		<hr/>
3. Intent to Deny Permit Issued:		0
		<hr/>
C. Administrative Enforcement		
1. New cases received:		7
		<hr/>
2. On-going administrative cases:		
a. Pending:		15
b. Active:		19
c. Legal:		2
d. Tracking compliance (Administrative):		18
e. Inactive/Referred cases:		0
		<hr/>
Total		54

COMMISSION
 Brian Blair
 Rose V. Ferlita
 Ken Hagan
 Al Higginbotham
 Jim Norman
 Mark Sharpe
 Kevin White



Roger P. Stewart Center
 3629 Queen Palm Dr. • Tampa, FL 33619
 Ph: (813) 627-2600
 Fax Numbers (813):
 Admin. 627-2620 Waste 627-2640
 Legal 627-2602 Wetlands 627-2630
 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

MEMORANDUM

DATE: November 6, 2007

TO: Tom Koulianos, Director of Finance and Administration

FROM: Mary Jo Howell, Executive Secretary, Waste Management Division
 through
 Hooshang Boostani, Director of Waste Management

SUBJECT: **WASTE MANAGEMENT'S OCTOBER 2007
 AGENDA INFORMATION**

A. ADMINISTRATIVE ENFORCEMENT

1. New cases received	2
2. On-going administrative cases	113
a. Pending	4
b. Active	51
c. Legal	9
d. Tracking Compliance (Administrative)	33
e. Inactive/Referred Cases	16
3. NOI's issued	1
4. Citations issued	2
5. Consent Orders and Settlement Letters Signed	0
6. Civil Contributions to the Pollution Recovery Fund	\$2,045.00
7. Enforcement Costs collected	\$1,217.00
9. Cases Closed	5

B. SOLID AND HAZARDOUS WASTE

1. FDEP Permits (received/reviewed)	1/1
2. EPC Authorization for Facilities NOT requiring DEP permit	1/0
3. Other Permits and Reports	
a. County Permits	3/6
b. Reports	46/46
4. Inspections (Total)	248
a. Complaints	35
b. Compliance/Reinspections	22
c. Facility Compliance	9
d. Small Quantity Generator	181
e. P2 Audits	1
5. Enforcement	
a. Complaints Received/Closed	38/35
b. Warning Notices Issued/Closed	4/3
c. Compliance letters	49
d. Letters of Agreement	1
e. Agency Referrals	0
6. Pamphlets, Rules and Material Distributed	166

C. STORAGE TANK COMPLIANCE

1. Inspections	
a. Compliance	122
b. Installation	10
c. Closure	10
d. Compliance Re-Inspections	35
2. Installation Plans Received/Reviewed	05/09
3. Closure Plans & Reports	
a. Closure Plans Received/ Reviewed	13/14
b. Closure Reports Received/Reviewed	08/12
4. Enforcement	
a. Non-compliance Letters Issued/Closed	71/58
b. Warning Notices Issued/Closed	04/01
c. Cases referred to Enforcement	00
d. Complaints Received/Investigated	03/03
e. Complaints Referred	00
5. Discharge Reporting Forms Received	02
6. Incident Notification Forms Received	25
7. Cleanup Notification Letters Issued	02
8. Public Assistance	200+

D. STORAGE TANK CLEANUP

1. Inspections	34
2. Reports Received/Reviewed	123/133
a. Site Assessment	10/09
b. Source Removal	03/03
c. Remedial Action Plans (RAP's)	10/13
d. Site Rehabilitation Completion Order/ No Further Action Order	06/05
e. Active Remediation/Monitoring	61/72
f. Others	33/31
3. State Cleanup	
a. Active Sites	NO LONGER ADMINISTERED
b. Funds Dispersed	

E. RECORD REVIEWS - 14

F. PUBLIC INFORMATION PROJECTS - 2

**ACTIVITIES REPORT
WATER MANAGEMENT DIVISION
OCTOBER, 2007**

A. ENFORCEMENT

1. New Enforcement Cases Received:	3
2. Enforcement Cases Closed:	8
3. Enforcement Cases Outstanding:	60
4. Enforcement Documents Issued:	6
5. Recovered costs to the General Fund:	\$ 1,130.00
6. Contributions to the Pollution Recovery Fund:	\$ 4,500.00

<u>Case Name</u>	<u>Violation</u>	<u>Amount</u>
a. Valrico Citgo	Expired Permit	\$ 1,000.00
b. 4528 S. Dale Mabry	Construction w/out a Permit	\$ 1,000.00
c. Victoria Station	Placement of col. sys. in service w/out acceptance letter.	\$ 2,500.00

B. PERMITTING/PROJECT REVIEW - DOMESTIC

1. Permit Applications Received:	33
a. Facility Permit:	7
(i) Types I and II	0
(ii) Types III	7
b. Collection Systems-General	14
c. Collection Systems-Dry Line/Wet Line:	12
d. Residuals Disposal:	0
2. Permit Applications Approved:	17
a. Facility Permit:	4
b. Collection Systems-General:	6
c. Collection Systems-Dry Line/Wet Line:	7
d. Residuals Disposal:	0
3. Permit Applications Recommended for Disapproval:	0
a. Facility Permit:	0
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0
4. Permit Applications (Non-Delegated):	0
a. Recommended for Approval:	0
5. Permits Withdrawn:	1
a. Facility Permit:	1
b. Collection Systems-General:	0
c. Collection Systems-Dry Line/Wet Line:	0
d. Residuals Disposal:	0

6. Permit Applications Outstanding:	85
a. Facility Permit:	16
b. Collection Systems-General:	45
c. Collection Systems-Dry Line/Wet Line:	24
d. Residuals Disposal:	0
7. Permit Determination:	5
8. Special Project Reviews:	0
a. Reuse:	0
b. Residuals/AUPs:	0
c. Others:	0
C. INSPECTIONS - DOMESTIC	
1. Compliance Evaluation:	13
a. Inspection (CEI):	1
b. Sampling Inspection (CSI):	12
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	55
a. Inspection (RI):	17
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	37
d. Enforcement Inspection (ERI):	1
3. Engineering Inspections:	44
a. Reconnaissance Inspection (RI):	5
b. Sample Reconnaissance Inspection (SRI):	0
c. Residual Site Inspection (RSI):	0
d. Preconstruction Inspection (PCI):	6
e. Post Construction Inspection (XCI):	33
f. On-site Engineering Evaluation:	0
g. Enforcement Reconnaissance Inspection (ERI):	0
D. PERMITTING/PROJECT REVIEW - INDUSTRIAL	
1. Permit Applications Received:	3
a. Facility Permit:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	3
b. General Permit:	0

c. Preliminary Design Report:	0
(i) Types I and II	0
(ii) Type III with Groundwater Monitoring:	0
(iii) Type III w/o Groundwater Monitoring:	0
2. Permits Recommended to DEP for Approval:	0
3. Special:	4
a. Facility Permits:	4
b. General Permits:	0
4. Permitting Determination:	0
5. Special Project Reviews:	90
a. Phosphate:	14
b. Industrial Wastewater:	25
c. Others:	51
E. INSPECTIONS - INDUSTRIAL	37
1. Compliance Evaluation:	14
a. Inspection (CEI):	14
b. Sampling Inspection (CSI):	0
c. Toxics Sampling Inspection (XSI):	0
d. Performance Audit Inspection (PAI):	0
2. Reconnaissance:	20
a. Inspection (RI):	3
b. Sample Inspection (SRI):	0
c. Complaint Inspection (CRI):	17
d. Enforcement Reconnaissance Inspections (ERI):	0
3. Engineering Inspections:	3
a. Compliance Evaluation (CEI):	3
b. Sampling Inspection (CSI):	0
c. Performance Audit Inspection (PAI):	0
d. Complaint Inspection (CRI):	0
e. Enforcement Reconnaissance Inspections (ERI):	0
F. INVESTIGATION/COMPLIANCE	
1. Citizen Complaints:	
a. Domestic:	48
(i) Received:	19
(ii) Closed:	29
b. Industrial:	18
(i) Received:	12
(ii) Closed:	6

2. Warning Notices:	
a. Domestic:	17
(i) Received:	4
(ii) Closed:	13
b. Industrial:	3
(i) Received:	1
(ii) Closed:	2
3. Non-Compliance Advisory Letters:	22
4. Environmental Compliance Reviews:	161
a. Industrial:	51
b. Domestic:	110
5. Special Project Reviews:	4
G. RECORD REVIEWS	
1. Permitting:	3
2. Enforcement:	0
H. ENVIRONMENTAL SAMPLES ANALYZED/REPORTS REVIEWED FOR:	
1. Air Division:	86
2. Waste Division:	0
3. Water Division:	24
4. Wetlands Division:	0
5. ERM Division:	184
6. Biomonitoring Reports:	5
7. Outside Agency:	67
I. SPECIAL PROJECT REVIEWS:	8
1. DRIs:	3
2. ARs:	3
3. Technical Support:	5
4. Other:	0

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
October 2007**

A General	Totals
1. Telephone Conferences	707
2. Unscheduled Citizen Assistance	70
3. Scheduled Meetings	243
4. Correspondence	495
B Assessment Reviews	
1. Wetland Delineations	46
2. Surveys	36
3. Miscellaneous Activities in Wetland	33
4. Mangrove	3
5. Notice of Exemption	4
6. Impact/ Mitigation Proposal	19
7. Tampa Port Authority Permit Applications	40
8. Wastewater Treatment Plants (FDEP)	3
9. DRI Annual Report	3
10. Land Alteration/Landscaping	0
11. Land Excavation	3
12. Phosphate Mining	3
13. Rezoning Reviews	36
14. CPA	0
15. Site Development	64
16. Subdivision	65
17. Wetland Setback Encroachment	8
18. Easement/Access-Vacating	0
19. Pre-Applications	52
20. On-Site Visits	185
C Investigation and Compliance	
1. Complaints Received	15
2. Warning Notices Issued	9
3. Warning Notices Closed	8
4. Complaint Inspections	59
5. Return Compliance Inspections	61
6. Mitigation Monitoring Reports	20
7. Mitigation Compliance Inspections	39
8. Erosion Control Inspections	52
9. MAIW Compliance Site Inspections	21
10. TPA Compliance Site Inspections	11
D Enforcement	
1. Active Cases	34
2. Legal Cases	1
3. NOI's	8
4. Number of Citations Issued	0
5. Number of Consent Orders Signed	3
6. Administrative - Civil Cases Closed	5
7. Cases Referred to Legal Department	1
8. Contributions to Pollution Recovery	\$9,900.00

**EPC WETLANDS MANAGEMENT DIVISION
BACKUP AGENDA
October 2007**

9. Enforcement Costs Collected	\$578.00
E. Ombudsman	
Agriculture	0
Permitting Process	0
Rule Assistance	0
Staff Assistance	1
Miscellaneous/Other	2

**ENVIRONMENTAL PROTECTION COMMISSION
OF HILLSBOROUGH COUNTY
POLLUTION RECOVERY TRUST FUND
AS OF 10/31/07**

Balance as of 10/01/07	*Includes 910 Interfund Transfers FY06	FY05	\$1,112,615
Interest Accrued			
Deposits	FY07	48,821	
Disbursements	FY07	(\$4,581)	
Total			\$1,156,855

Pollution Recovery Fund Balance \$1,156,855

Old Encumbrances 909		Start Date	Exp Date
Water Drop Patch/Girl Scouts		11/8/2004	9/1/2007
Artificial Reef Program	166,753		
Pollution Prevention/Waste Reduction (101)	8,002		
PRF Project Monitoring	46,119		
Total	<u>220,874</u>		

***FY06 Projects 910**

Save Our Canals	\$ 3,830	9/26/2006	5/2/2007
Asbestos	\$ 4,486		
Experimental Land Based Segrass Nursery	20,000	8/1/2006	8/1/2007
Seagrass Restoration & Longshore Bar Recovery	75,000	5/4/2006	5/4/2008
Nature's Classroom Phase III	188,000	7/3/2006	7/3/2008
2005 State of the River	4,727	7/19/2006	1/19/2008
Seawall Removal Fort Brooke Park	100,000	10/29/2006	4/29/2008
Analysis of Sources of Fecal Indicator Bacteria	125,000	7/3/2006	1/3/2008
Pollution Monitoring Pilot Project	45,150	7/25/2006	1/25/2008
Industrial Facilities Stormwater Inspection Program	28,885	7/3/2006	1/3/2008
Agriculture Pesticide Collection	24,000	7/3/2006	1/3/2008
Knights Preserve	35,235	6/14/2006	12/14/2007
Agriculture Best Mgmt Practice Implementation	150,000	1/31/2007	1/31/2010
Oyster Reef Shoreline	30,000	5/2/2007	Open End
Nitrogen Emission/Deposition	40,906	4/19/2007	10/19/2008
Lake Thonotosassa Muck Removal	75,000	2/27/2007	8/27/2008
Erosion Control/Oyster Bar Habitat Creation	75,000	5/17/2007	11/17/2008
Tank Removal	25,000	TBD	TBD
Total	<u>1,050,219</u>		

Total of Encumbrances \$ 220,874

Minimum Balance 120,000

Balance Available 10/31/07 \$815,981

FY05 Projects 910			
Brazilian Pepper (92)	\$ 26,717	7/19/2000	6/1/2006
COT Parks Dept/Cypress Point (97)	100,000	12/6/2005	TBD
Bahia Beach Restoration (contract 04-03)	150,000	8/19/2004	3/1/2008
Tampa Shoreline Restoration	30,000	3/2/2005	5/31/2007
Field Measurement for Wave Energy	51,251	4/20/2005	12/31/2007
Water & Coastal Area Restoration & Maint.	5,285	6/7/2005	12/31/2006
Port of Tampa Stormwater Improvement	45,000	3/1/2006	3/1/2008
Natures Classroom Capital Campaign	44,000	6/6/2005	6/6/2006
Total	<u>\$ 452,253</u>		

COMMISSION
 Brian Blair
 Rose V. Ferlita
 Ken Hagan
 Al Higginbotham
 Jim Norman
 Mark Sharpe
 Kevin White



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 Legal 627-2602 Wetlands 627-2630
 Water 627-2670 ERM 627-2650
 Air 627-2660 Lab 272-5157

Executive Director
 Richard D. Garrity, Ph.D.

ENVIRONMENTAL PROTECTION COMMISSION
 OF HILLSBOROUGH COUNTY
 ANALYSIS OF GARDINIER SETTLEMENT TRUST FUND
 AS OF OCTOBER 31, 2007 REVISED

Fund Balance as of 10/01/07	\$248,370
Interest Accrued	
Disbursements FY07	(5,861)

Fund Balance	\$ 242,509
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Encumbrances Against Fund Balance:		Start Date	Expiration Date
SP627 Tampa Bay Scallop Restoration	\$ 4,906	08/29/03	12/31/07
SP636 Fantasy Island	4,208	01/20/05	12/31/07
SP634 Cockroach Bay ELAPP Restoration	233,395	03/10/05	01/31/08
Total of Encumbrances	\$242,509		

Fund Balance Available October 31, 2007 \$ - 0 -



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Legal Case Summary for November 2007

Consent Agenda X **Regular Agenda:** **Public Hearing**

Division: Legal Department

Recommendation: None, informational update.

Brief Summary: The EPC Legal Department provides a monthly list of all its pending civil matters, administrative matters, and cases that parties have asked for additional time to file an administrative challenge.

Financial Impact: No financial impact anticipated; informational update only.

Background: In an effort to provide the Commission a timely list of pending legal challenges, the EPC staff provides monthly updates. The updates not only can inform the Commission of pending litigation, but may be a tool to check for any conflicts they may have. The summaries generally detail pending civil and administrative cases where one party has initiated some form of civil or administrative litigation, as opposed to other Legal Department cases that have not risen to that level. There is also a listing of cases where parties have asked for additional time in order to allow them to decide whether they wish to file an administrative challenge to an agency action while we concurrently are attempting to negotiate a settlement.

List of Attachments: November 2007 EPC Legal Case Summary

EPC LEGAL DEPARTMENT MONTHLY REPORT
November2007

A. ADMINISTRATIVE CASES

NEW ADMINISTRATIVE CASES [0]

EXISTING ADMINISTRATIVE CASES [4]

Carolina Holdings, Inc. v. EPC [LCHP04-008]: A proposed final agency action letter denying an application for authorization to impact wetlands was sent on May 7, 2004. Carolina Holdings, Inc. requested an extension of time to file an appeal. The EPC entered an Order Granting the Request for Extension of Time on June 3, 2004 and the deadline for filing an appeal was July 2, 2004. On July 2, 2004, Carolina Holdings, Inc. filed an appeal challenging the decision denying the proposed wetland impacts. The parties have conducted mediation to attempt to resolve the matter without a hearing. The applicant re-submitted the new final site plan for re-zoning determination. Hillsborough County denied the re-zoning application. The applicant has filed a Chapter 70, F.S. dispute resolution challenge of the County's re-zoning decision. On October 4, 2006 the parties jointly responded to the Hearing Officer that the matter would continue to be held in abeyance until at least January 8, 2007. The parties responded to the Hearing Officer again stating the proposed development is still under dispute with Hillsborough County. The next status report is due on December 28, 2007. (AZ)

Irshaid Oil, Inc. [LEPC06-006]: On March 15, 2006, Mr. Nasser Irshaid filed a request for extension of time to file an appeal to challenge a Citation of Violation and Order to Correct issued by EPC on February 28, 2006, regarding waste issues. The Legal Dept. granted the request and provided the Appellant with a deadline of June 19, 2006 in which to file an appeal. On June 8, 2006 Appellant filed a second request for extension of time. It was determined that the request did not show good cause and the request was denied. Mr. Irshaid had until July 19, 2006 to file an appeal. On July 10, 2006 Mr. Irshaid filed an insufficient Notice of Appeal which was dismissed with leave to amend. Mr. Irshaid had until July 28, 2006 to file an amended appeal. Mr. Irshaid filed an appeal on July 18, 2006. A Hearing Officer was appointed on August 14, 2006. The Case Management Conference was held on Sept. 6, 2006. The Case was held in abeyance until May 24, 2007 since that time, a status conference has been scheduled for July 31, 2007. No final hearing has been set pending possible settlement. (AZ)

Daniel A. and Celina Jozsi [LEPC06-031]: On October 17, 2006, the Jozsis filed a Notice of Appeal and Objection to an Amended Consent Order entered on September 27, 2006. The Legal Department has issued a letter acknowledging the appeal. A mediation was conducted on February 27, 2007. The mediation resulted in an impasse. The parties conducted a final hearing on the week of April 2, 2007. The Hearing Officer's Recommended Order was entered on May 31, 2007. The Jozsis filed exceptions to the Hearing Officer's recommendation and responses were also filed. The matter was transferred back to the Commission for adoption of a Final Order at the September 20, 2007 regular board meeting. On September 20, 2007 a Public Hearing was held before the Commission to consider the Hearing Officer's recommendation and render a Final Order in this case. The Commission upheld the Hearing Officer's recommendation and a Final Order was executed on October 1, 2007. On October 29, 2007, Appellants filed a Notice of Appeal of the Final Order in the Second District Court. (AZ)

Martini Island Land Co. [LEPC07-023]: On August 29, 2007, the Appellant filed a request for an extension of time to file an appeal to challenge a Citation to Cease and Order to Correct that was issued by the Water Mgmt Division. The request was granted and the Appellant had until September 21, 2007 to file an appeal. On Sept. 21, 2007 the Appellant did file an Appeal challenging the Citation to Cease and Order to Correct. The parties are negotiating. (RM)

RECENTLY RESOLVED ADMINISTRATIVE CASES [1]

Mantua Manufacturing Company [LEPC06-027]: On September 27, 2006 Mantua Manufacturing Co., a metal coating operation that emits air pollutants, filed a petition for administrative hearing challenging the Notice of Permit Denial that was issued to them on September 19, 2006. The parties reached an agreement and the Appellant filed a Notice of Withdrawal on Sept. 11, 2007. The case has been closed. (RM)

B. CIVIL CASES

NEW CIVIL CASES [0]

EXISTING CIVIL CASES [9]

Julsar, Inc. [LEPC04-014]: Authority to take appropriate action against Julsar, Inc. for illegally removing over 11,400 square feet of regulated asbestos-containing ceiling material was granted on May 20, 2004. A Notice of Violation has issued and was received in early 2007. A Final Order was issued on June 1, 2007, and it was not appealed. The EPC filed a lawsuit to compel compliance on October 9th. (RM)

U-Haul Company of Florida [LEPC04-016]: Authority to take appropriate action against U-Haul Company of Florida for failure to conduct a landfill gas investigation and remediation plan was granted September 18, 2003. The EPC Legal Department filed a lawsuit on September 3, 2004 and the case is progressing through discovery. The parties attended a court ordered mediation on May 15, 2007. The parties are in settlement discussions concerning the preparation and implementation of a Remedial Action Plan to address the landfill gas danger at the facility. (AZ)

Jozsi, Daniel A. and Celina v. EPC and Winterroth [LEPC05-025]: Daniel A. and Celina Jozsi requested an appeal of a Consent Order entered into between James Winterroth and the EPC Executive Director. The appeal was not timely filed and the EPC dismissed the appeal. On December 8, 2005, the Jozsis appealed the order dismissing the appeal to the circuit court. The appeal was transferred to the Second District Court of Appeal (2DCA). The EPC transferred the record to the 2DCA on Aug. 24, 2006. On Sept. 27, 2006 the EPC and James Winterroth entered into an Amended Consent Order. The Jozsis were provided the right to challenge the Amended Order. The Jozsis filed an appeal of the Amended Consent Order on Oct. 17, 2006 (see related case LEPC06-031). On October 19, 2006 the EPC filed a Motion to Dismiss the Second DCA appeal. The Court denied the Motion to Dismiss the appeal. The Appellants filed the initial brief and the Appellees EPC and James Winterroth requested additional time to file their answer brief. The request for additional time was based on the Court's order requiring the record be supplemented. The parties have all filed briefs. Appellee James Winterroth filed a Status Report and Suggestion of Mootness. The Appellants filed a response as directed by the Court and the parties are awaiting the Court's decision. (AZ)

Miley's Radiator Shop [LEPC06-011]: Authority was granted on April 20, 2006 to pursue appropriate legal action against Miley's Radiator Shop, Calvin Miley, Jr., Calvin Miley, Sr., and Brenda Joyce Miley Tyner for waste management violations for improper storage and handling of car repair related wastes on the subject property. In addition, a citation was entered against the respondents on October 28, 2005 requiring specific corrective actions. The Respondents have not complied with the citation. The EPC is preparing to file a lawsuit for the referenced violations. (AZ)

Phillips & Munzel Oil Co., Inc. [LEPC06-034] Authority to take appropriate action including filing a civil lawsuit was granted by the Commission on December 14, 2006. The Respondent is currently not in compliance with underground storage tank regulations. The EPC is attempting to negotiate a settlement in this matter. (AZ)

Bayside Home Builders, Inc [LEPC07-008]: Authority to take appropriate action against the parties was granted by the Commission on February 15, 2007, for failure to comply with a Consent Order payment schedule for asbestos violations. The EPC filed a lawsuit to compel compliance on October 9th. (RM)

Kenneth Fisher v. EPC and Ahmed Lakhani [LEPC07-014]: Kenneth Fisher filed a civil lawsuit seeking to foreclose on a property that the EPC has a judgment lien. The Legal Department filed its answer on June 8, 2007 responding to the lawsuit by stating its lien is superior to the Plaintiffs. (AZ)

Petrol Mart, Inc. [LEPC07-018]: Authority to take appropriate action against Petrol Mart, Inc. to seek corrective action, appropriate penalties and recover administrative costs for improperly abandoned underground storage tanks and failure to address petroleum contamination was granted on June 21, 2007. The owner of the property is insolvent and the corporation inactive; however, the Waste Management Division intends on obtaining a judgment

and lien on the property for the appropriate corrective actions. The Legal Department filed a civil lawsuit on September 26, 2007. The defendant was served with the lawsuit on October 12, 2007. The Legal Department is preparing a Motion for Default for the defendant failing to respond to the lawsuit. (AZ)

South Bay Corporation & Industrial Park, Inc. and The James Group [LEPC07-025]: Authority to take appropriate action against South Bay Corporation and the James Group for operating a wastewater treatment facility without a valid permit was granted on September 20, 2007. The parties are seeking settlement. (RM)

RECENTLY RESOLVED CIVIL CASES [1]

Rusty's Pallet Services, Inc. [LEPC07-019]: On June 21, 2007 authority was granted to take appropriate action against Rusty's Pallet Services, Inc. to compel compliance with the Rules of the EPC regarding an ongoing dust nuisance caused by the business activities and to seek appropriate penalties and administrative costs. The facility is relocating. A Consent Order was executed on October 16, 2007. Unless payment is not timely made, the EPC Legal will close its file. (RM)

C. OTHER OPEN CASES [11]

The following is a list of cases assigned to EPC Legal that are not in litigation, but the party or parties have asked for an extension of time to file for administrative litigation in the hope of negotiating a settlement or the parties have requested a waiver or variance.

Notice of Intent to Initiate Litigation Against EPC, Billy Williams, Claimant [LEPC05-013]: On April 29, 2005 McCurdy and McCurdy, LLP submitted to EPC a Notice of Intent to Initiate Litigation Against Governmental Entity Re: Hillsborough County Environmental Protection Commission on behalf of Mr. Billy Williams, Claimant, for damages sustained on or about December 15-18, 2003. The Notice alleges that Mr. Williams sustained serious bodily injuries and property damage as the result of EPC's actions and inactions with regard to alleged fugitive emissions released into the air by Coronet Industries. The suit could have been filed October 2005 but has not yet been filed. (RT)

Agrium U.S., Inc. [LEPC07-012]: On May 3, 2007 Petitioner filed a request for extension of time to file a petition for administrative hearing regarding an Air Operating Permit denial. The request was granted and the Petitioner had until July 6, 2007 to settle or file a petition in this matter. A fourth request for extension of time was filed and the petitioner has until January 4, 2008 to settle or file a petition. (RM)

Angelo's Aggregate Materials, Ltd [LEPC07-015]: On May 30, 2007, Petitioner filed a request for an informal conference regarding a Notice of Violation issued by the Air Mgmt. Division regarding dust issues. The parties are negotiating. (RM)

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-016]: On May 30, 2007, Petitioner filed a request for a waiver or variance from noise regulations for an emergency power generator. (RM)

Southern HealthCare Management, LLC d/b/a Bayshore Pointe Nursing & Rehab Center [LEPC07-017]: On May 31, 2007, Appellant filed an extension of time to file a Notice of Appeal regarding an Air Mgmt. Division citation issued to the facility for noise violations from its emergency generator. The request was granted and Petitioner has until August 15, 2007 to file a Notice of Appeal. A second extension request was filed on August 3, 2007. The request was granted and the Appellant has until September 26, 2007 to file a notice of Appeal. Petitioner requested a third extension of time which has been granted. They will have until November 20, 2007 to file a petition. (RM)

Cory Packaging, Inc. (f.k.a. Master Packaging, Inc.) [LEPC07-021]: On August 8, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge an Air permit issued to them. The request has been granted and the Petitioner has until October 8, 2007 to file. On October 4th a second request for

extension was filed. The parties resolved the matter and the second extension of time was withdrawn on October 22, 2007. This matter will be closed. (RM)

Gaetano Cacciatore, Inc. [LEPC07-022]: On August 7, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge an Air permit issued to them. The request has been granted and the Petitioner has until October 1, 2007 to file. The petitioner filed for a second extension of time which has been granted. The Petitioner has until November 21, 2007 to file. (RM)

St. Joseph's Hospital, Inc. [LEPC07-024]: On September 21, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge a draft permit. The request was granted and the Petitioner has until October 26, 2007 to file. The parties resolved any outstanding issues and the Petitioner has withdrawn their request for an extension. The case has been closed. (RM)

Separation Technologies LLC [LEPC07-026]: On September 24, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge a draft air construction permit. The request was granted and the Petitioner has until November 26, 2007 to file. (RM)

Bay Hills Village Condominium Association, Inc. [LEPC07-027]: On September 26, 2007 the Petitioner requested an extension of time to file a petition for administrative hearing to challenge a Notice of Violation issued on September 4, 2007. The request was granted and the Petitioner has until November 26, 2007 to file. (RM)

B. Kalra [LEPC07-028]: On September 11, 2007, Appellant, B. Kalra, filed an appeal with the Civil Service Board challenging the Notice of Dismissal which was issued on Sept: 7, 2007. A Motion for Summary Final Judgment was filed on October 19, 2007 and a hearing on the motion has been scheduled for November 14, 2007. (RM)



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Public hearing to approve amendments to the Wetlands Rule, Ch. 1-11, Rules of the EPC concerning exemptions for certain bona fide agricultural activities .

Consent Agenda _____ **Regular Agenda** _____ **Public Hearing** X

Division: Wetlands Management Division and Legal Department

Recommendation: Hold a public hearing and approve adoption the attached proposed new Section 1-11.12 of the Wetlands Rule, Ch. 1-11, Rules of the EPC.

Brief Summary: Pursuant to the EPC Act, the EPC Board must hold a noticed public hearing to approve, repeal or amend a rule. At the August 16, 2007 regular EPC meeting the EPC Board approved the Hybrid Model presented by staff. In accordance with the Hybrid Model, the staff proposes amendments to the EPC Wetland Rule Chapter 1-11 that provide for certain exemptions for bona fide agricultural activities in Hillsborough County.

Financial Impact: No Financial Impact.

Background: On August 16, 2007, the EPC Board approved the Hybrid Model, a plan to streamline and clarify the EPC's wetlands regulatory rule, Chapter 1-11, Rules of the EPC. As part of the Hybrid Model, the EPC will consider Section 1-11.12 providing for the exemption of certain bona fide agricultural activities from portions of EPC's review of wetland impacts. Staff held informal public workshops on September 24, 2007 and October 30, 2007 and consulted with the public and the Agricultural Economic Development Council. The staff has prepared a draft rule section proposed for adoption at the November 15, 2007 regular meeting. The rule provides for some wetland impacts arising out of certain bona fide agricultural activities being exempt from the reasonable use test of the EPC Wetland Rule. These wetland impacts include impacts approved through a state and federal program referred to as the Agricultural Ground and Surface Water Management (AGSWM) program; wetland impacts authorized under certain state exemptions; and impacts to small isolated wetlands. Another set of wetland impacts arising out of certain bona fide agricultural activities would be exempt from the mitigation requirements of the EPC Wetland Rule. These wetland impacts include impacts to isolated wetlands no greater than one quarter acre in size or if the applicant proposes mitigation through the state environmental resource permitting process. The proposed amendments were developed in accordance with the approved Hybrid Model.

Pursuant to Section 5.2 of the Hillsborough County Environmental Protection Act (EPC Act), the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The EPC staff requests that the Board approve the attached rule amendments at a public hearing at the regularly scheduled meeting on November 15, 2007.

List of Attachments: Proposed Section 1-11.12, Rules of the EPC

- Rule Draft -

**RULES OF THE
ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-11
WETLANDS**

**1-11.12 BONA FIDE AGRICULTURAL
ACTIVITIES**

(1) The following exemptions apply to development within wetlands as a result of bona fide agricultural activities. Bona fide agricultural activities include necessary farming operations which are normal and customary for the area, such as site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, and construction of access and internal roads, bridges, or culverts to facilitate these operations; construction or maintenance of irrigation and drainage ditches; and construction, operation or maintenance of agricultural use ponds. The following exemptions do not include activities such as logging or timbering in wetlands, construction of permanent or temporary structures such as non-agricultural buildings or residences, or any similar non-agricultural uses of land even if related to bona fide agricultural activities. The applicant for any of the following wetland impacts must apply with the Wetlands Management Division to utilize the following exemptions under a Miscellaneous Activities in Wetlands authorization or under mitigation review as applicable.

(a) Reasonable Use exemption: The following wetland impacts satisfy the reasonable use requirement set forth in Section 1-11.07:

(i) Wetland impacts where the wetland impacts are addressed in a Southwest Florida Water Management District (District) approved Resource Management System (RMS) plan or a Natural Resource Conservation Service approved RMS plan implemented pursuant to the Agricultural Ground and Surface Water

Management program (AGSWM). The applicant for wetland impacts must fully implement the terms of the RMS plan to be eligible for this exemption. The conditions contained in the RMS plan shall be included in any approval as an order of the Executive Director and shall be enforceable as such pursuant to Section 17 of the EPC enabling act.

(ii) Where the impact is to an isolated non-forested wetland no greater than one quarter (1/4) acre in size and the impact is authorized in writing by the District through use of any of the state exemptions in Subsections 40D-4.051(7), (8)(a), (8)(d), (8)(m), (9)(d), or (9)(e), F.A.C.

(iii) Any activities constituting development as defined in this rule within isolated non-forested wetlands no greater than one quarter (1/4) acre in size where the wetland impact does not involve converting wetlands or other jurisdictional surface waters to uplands. An applicant may increase wetlands impacts under this Section up to a one half (1/2) acre isolated non-forested wetland if the impact incorporates the requirements set forth in Section 8.01.06A of the Land Development Code. The total cumulative area of wetland impacts on the property under this exemption shall not exceed one half (1/2) acre. The impact must also be authorized by a state exemption or an Environmental Resource Permit issued by the District. In the event wetland impacts are authorized in those wetlands in the future pursuant to Chapter 1-11, the previously impacted wetland area shall be mitigated as an undisturbed wetland for purposes of Section 1-11.08.

(iv) Any activities constituting development as defined in this rule within isolated non-forested wetlands no greater than one quarter (1/4) acre in size. To be eligible for this exemption wetland impacts on the property may not cumulatively exceed one half (1/2) acre. The wetland impact must also be authorized by a state exemption or an Environmental Resource Permit issued by the District. In the event wetland impacts are authorized in those wetlands in the future

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

pursuant to Chapter 1-11, the previously impacted wetland area shall be mitigated as an undisturbed wetland for purposes of Section 1-11.08.

(b) Mitigation exemption:

(i) Wetland impacts that are limited to fully isolated wetlands or other surface waters one quarter (1/4) acre or less in size, are exempt from the mitigation requirements under Section 1-11.08, unless the total proposed wetland impacts to isolated wetlands on the agricultural land cumulatively exceed one half (1/2) acre in size. This exemption does not apply where the wetland is used by threatened or endangered species, or the wetland is located in an area of state critical concern designated pursuant to Chapter 380, F.S.

(ii) Any wetland impacts authorized under Section 1-11.12(1)(a) that are proposed for mitigation pursuant to the uniform mitigation assessment methodology and are incorporated into an ERP shall be exempt from Section 1-11.08. The conditions of the ERP mitigation shall be included in any approval as an order of the Executive Director and shall be enforceable as such pursuant to Section 17 of the EPC enabling act. The mitigation must be located within Hillsborough County. However, if mitigation is otherwise required by the Wetland Rule Chapter 1-11 and the District does not require mitigation, an applicant must still comply with Section 1-11.08 for those wetland impacts and provide the appropriate mitigation.

(iii) To be eligible for this exemption under this Section the property must remain in a bona fide agricultural use for at least seven (7) years from the date of the impact. In the event the wetland impact area is taken out of agricultural use and the land converts to other uses such as residential or non-agriculture commercial use within seven (7) years, the wetlands that were impacted pursuant to the exemption must be re-created in substantially the same location and in the substantially the same condition, or the impacted wetlands must be mitigated pursuant to Section 1-11.08. If the property owner sells or conveys the property, the property owner shall ensure that future

property owners are aware that the area must be re-created or mitigated as provided above in the event the area converts to a non-agricultural use. The approval letter shall be recorded in the public records to serve as notice to future owners.

(2) Conditions and limitations applicable to all above exempt activities:

(a) Further subdivision of a property after the adoption of this rule shall not entitle present or future owners to wetland impact thresholds greater than the areas eligible under the area of original common ownership.

(b) These exemptions do not apply to any filling activity using anything other than clean fill as defined in Sections 62-701.200(38) or (15), or 62-701.730(15), F.A.C.

(c) Development under these exemptions shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.

(d) Fish ponds constructed under this Section shall not be eligible for the exemption in Section 1-11.11(1)(b)(iii).

(e) These exemptions do not apply to wetlands created, enhanced, or restored as mitigation for wetlands or surface water impacts under a permit issued by the Executive Director, DEP, District or United States Army Corps of Engineers.

(f) The development under these exemptions shall include best management practices for erosion, turbidity and other pollution control to prevent violations of state or Commission water quality standards.

(g) These exemptions do not apply to activities reviewed under the Mangrove Trimming and Preservation Rule Chapter 1-14.

(h) These exemptions do not imply exemption from obtaining all proper permits or complying with regulations of other federal, state or local agencies.

Section History – adopted _____, 200_;

Effective date: _____

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Public hearing to approve amendments to Chapter 1-12 (Storage Tank Rule), Rules of the EPC.

Consent Agenda _____ **Regular Agenda** _____ **Public Hearing** X

Division: Waste Management Division and Legal Department

Recommendation: Hold a public hearing and approve amendments to Chapter 1-12.

Brief Summary: The EPC Board must hold a noticed-public hearing to approve or amend its rules. The Florida Department of Environmental Protection (DEP) amended its storage tank rules (62-761 and 62-762, F.A.C.) and re-numbered them. The EPC previously adopted those rules to implement its DEP-contracted storage tank program, thus the EPC must now re-adopt the DEP rules and the new rule numbering system. There is no increase or decrease in EPC regulatory powers.

Financial Impact: No Financial Impact Anticipated.

Background: Pursuant to Section 5(2) of the Hillsborough County Environmental Protection Act (EPC Act), the EPC Board must hold a noticed public hearing to approve a rule or rule amendment. The petroleum storage tank rule making was properly noticed and the EPC staff requests that the Board hold the rule amendment public hearing at the regularly scheduled meeting on November 15, 2007, and approve the rules as attached.

The proposed amendment updates the Storage Tank Rule, Chapter 1-12, Rules of the EPC, by re-adopting the Florida Department of Environmental Protection's (DEP) underground storage tank rules and adopting the newly renumbered aboveground storage tank regulations. The DEP previously amended its rule by creating a separate section of the Florida Administrative Code for the aboveground storage tank regulations (62-762, F.A.C.), where previously it was a unified rule with underground storage tanks (62-761, F.A.C.). This amendment updates the EPC's rules to comply with that DEP revision. The proposed amendment does not increase or decrease the EPC's regulatory powers. These State rules are already in effect and are being implemented by the EPC pursuant to its agreements with the Florida Department of Environmental Protection.

List of Attachments: Proposed Amended Chapter 1-12, Rules of EPC

- DRAFT RULE -

ENVIRONMENTAL PROTECTION
COMMISSION
OF HILLSBOROUGH COUNTY

CHAPTER 1-12
STORAGE TANK RULE

- 1-12-10.00 Intent
- 1-12-20.00 Interpretation
- 1-12-61.20 Definitions
- 1-12-61.30 Applicability
- 1-12-61.40 Registration and Financial Responsibility
- 1-12-61.45 Notification and Reporting
- 1-12-61.48 EPC Installation or Upgrade Plan Review Fee
- 1-12-61.50 Performance Standards for Storage Tank Systems
- 1-12-61.60 Release Detection Standards
- 1-12-61.70 Repairs, Operation, and Maintenance
- 1-12-61.71 Recordkeeping
- 1-12-61.80 Out-Of-Service and Closure Requirements
- 1-12-61.82 Incident and Discharge Response

1-12-10.00 INTENT

(1) Pursuant to the Florida Legislature's determination in Section 376.30 F.S. that the storage, transportation and disposal of pollutants is a hazardous undertaking, that their discharge poses a great threat to the environment, and that the state interest in regulating their storage, transportation and disposal outweighs the burden imposed on such facilities, the Florida Department of Environmental Protection (DEP or Department) adopted Chapters 62-761 and 62-762, F.A.C. The Commission intends to facilitate the delegation of DEP's program regulating stationary tanks by adopting a rule incorporating appropriate sections of the

Department's rules so as to establish a mechanism by which the Commission can effectively implement and enforce DEP's regulations under its own authority, as well as by any delegated authority.

(2) It is the Commission's intent to assist in the state's effort to assure protection of surface and groundwater's in Hillsborough County by implementing the standards for construction, installation, maintenance, registration, removal and disposal of storage tank systems. It is not the Commission's intent at this time to implement regulations more stringent than those of DEP.

(3) By incorporating by reference provisions of DEP's rules, the Commission intends that any provision requiring notice, submissions, or demonstration to the Department be read to also require notice, copies of submissions or demonstration directly to the Commission's Executive Director and that any provision requiring approval or authorizing action of the Department shall be read to also require approval or authorize action of the Commission's Executive Director, unless otherwise specifically provided herein.

Section History - amended , 2007
Effective , 2007

1-12-20.00 INTERPRETATION

The Commission will apply the Department's interpretations of its regulations here adopted by reference where possible; however, any action or position taken by the Commission or its Executive Director in conflict with a Department interpretation or policy applying such regulations will not be invalidated unless the interpretation or policy was formally issued by the Department in writing prior to the Commission's or Executive Director's action.

Section History - amended October 15, 1998
Effective October 15, 1998

1-12-61.20 DEFINITIONS

The Commission adopts for purposes of this rule the definitions contained in Sections 62-761.200 and 62-762.201, F.A.C. The definitions adopted by the Legislature in Section 376.301 F.S. also apply, as well as the definitions contained in Chapter 84-446, Laws of Florida, as amended or recodified.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.30 APPLICABILITY

The provisions and standards of this rule apply only to the owners and operators of facilities identified by Sections 62-761.300 and 62-762.301, F.A.C. as subject to Chapter 62-761 and Chapter 62-762, F.A.C.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.40 REGISTRATION AND FINANCIAL RESPONSIBILITY

The owners of facilities identified by Sections 62-761.400 and 62-762.401, F.A.C. are required to register with the Department as provided in that section. Where the registrant is not the property owner, the name of the property owner shall also be given to the Commission.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.45 NOTIFICATION AND REPORTING

The provisions of Sections 62-761.450 and 62-762.451, F.A.C. are adopted by reference.

A copy of any building plans which include the installation or upgrade of storage tanks systems shall be submitted to the Commission for review concurrent to submitting an application for a County or municipal building permit.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.48 EPC INSTALLATION OR UPGRADE PLAN REVIEW FEE

Applicable application fees for an installation or upgrade plan review required under this rule shall be provided in Chapter 1-6, Rules of the Commission.

Section History – amended October 15, 1998
Effective October 15, 1998

1-12-61.50 PERFORMANCE STANDARDS FOR STORAGE TANK SYSTEMS

The provisions of Sections 62-761.500, and 62-761.510, 62-762.501 and 62-762.511, F.A.C. are adopted by reference.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.60 RELEASE DETECTION STANDARDS

The provisions of Sections 62-761.600, 62-761.610, and 62-761.640, 62-762.601, 62-762.611 and 62-762.641, F.A.C. are adopted by reference.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.70 REPAIRS, OPERATION, AND MAINTENANCE

The provisions of Sections 62-761.700 and 62-762.701, F.A.C. are adopted by reference.

Section History – amended _____, 2007
Effective _____, 2007

1-12-61.71 RECORDKEEPING

The provisions of Sections 62-761.710 and 62-762.711, F.A.C. are adopted by reference.

Section History – amended _____, 2007
Effective _____, 2007

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

**1-12-61.80 OUT-OF-SERVICE AND
CLOSURE REQUIREMENTS**

The provisions of Sections 62-761.800 and 62-762.801, F.A.C. are adopted by reference.

Section History – amended _____, 2007

Effective _____, 2007

**1-12-61.82 INCIDENT AND
DISCHARGE
RESPONSE**

The provisions of Sections 62-761.820 and 62-762.821 F.A.C. are adopted by reference.

Section History – amended _____, 2007

Effective _____, 2007

**1-12-61.85 ALTERNATIVE
REQUIREMENTS AND
EQUIPMENT APPROVALS**

The provisions of Sections 62-761.850 and 62-762.851, F.A.C. are adopted by reference, and although the Commission shall be given copies of any request when submitted to the Department, and shall review and comment to the Department, the decision whether to approve or deny will be the Department's.

Section History – amended _____, 2007

Effective _____, 2007

Adopted 4/04/91

Amended 6/16/92

Amended 10/15/98

Amended _____



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Wetland Hybrid Quarterly Report

Consent Agenda _____ **Regular Agenda** **Public Hearing** _____

Division: Executive Director

Recommendation: Informational Report

Brief Summary: Attached is the first quarterly report of the Wetlands Hybrid Plan which covers the progress the EPC staff has made in implementing the Plan from August 16, 2007 – November 15, 2007. The Wetlands Hybrid Project Timeline is also attached for the Commission's review. Staff will update the Commission on the Hybrid Plan progress with a written report on a quarterly basis.

Financial Impact: No Financial Impact

Background: In order to keep the Commission and the public informed, EPC staff will make quarterly reports to the Commission regarding the progress of the Wetlands Hybrid Plan. Each task of the approved Wetlands Hybrid has been assigned to staff and work groups have been assembled and tasked with specific requirements and deadlines. The overall implementation master time frame is included with the quarterly report and is updated on a regular basis. This first quarterly report includes items that have been accomplished and the status of items still in process. A member of the staff has been assigned to oversee the master time frame and insure that all work groups are moving forward in a way that will allow them to meet their deadlines. Dr. Garrity will present a synopsis of the report to the Commission.

List of Attachments: EPC Wetlands Hybrid Implementation Quarterly Report
Wetlands Hybrid Project Timeline

**EPC Wetlands Hybrid Implementation
Quarterly Report
August 16, 2007 - November 15, 2007**

Amendment to Chapter 1-11, Wetlands Rule

Effective August 16, 2007, Chapter 1-11 was amended to provide for exemptions from selected activities.

Technical Advisory Group

Twenty members have been selected to participate in this group and the first meeting was held 10/19/07. A list of agenda topics to be covered in upcoming meetings was discussed. Four major topics were selected: Internal Process, External Process, Wetland Classification and Mitigation, and subcommittees were formed. The TAG will be set up to use electronic "meeting rooms" via the Tampa Bay Estuary Atlas website. This group will meet once a month on the third Friday.

Tampa Port Authority Delegation

Both TPA Board and EPC Board have approved the delegation. EPC and TPA attorneys have finalized the language for the delegation agreement as of 10-26-07 and it has been sent back staff for one more review.

Basis of Review

Staff has obtained a copy of the Environmental chapter of the SWFWMD Basis of Review document to review for applicability. Two working groups have been established, one to address Reasonable Use and the other to address the rest of the document. These groups will meet once a week.

Applicant's Handbook

Staff has obtained a copy of the DEP Applicants Handbook and is currently reviewing it for applicability.

Bona Fide Agricultural Activities

Select exemptions from "Reasonable Use" and Mitigation, for bona fide agricultural activities have been proposed for Chapter 1-11, Wetlands Rule. Two public workshops have been held to discuss the proposed rule changes and the final language is being drafted and will be posted to the EPC website prior to the Public Hearing scheduled for November 15, 2007.

Stakeholders

Each Commissioner has appointed two people to represent them on the Stakeholders group. The group needs to select a chairperson and set up a meeting schedule.

Ombudsman

Engineering Specialist, Christina Bryant was selected as ombudsman to serve as a neutral liaison between the citizens and staff of the Wetlands Division in order to provide an amenable solution to various types of conflicts or issues encountered, assist applicants in obtaining appropriate agriculture as well as miscellaneous activities permits. An electronic tracking system has been developed and implemented and approximately six have been handled already.

On-line Application Forms

Two online forms have been created and posted to the web site and are ready for public use. "Notice of Exempt Activities in Wetlands" and "Application for Nuisance Vegetation Removal in Wetlands" can both be filled out and submitted electronically. A meeting is scheduled for November 6, 2007 to discuss other forms that need to be revised and posted for use.

Mitigation Banking / ROMA's (Regional Off-site Mitigation Areas) / Rule Development

An internal working group has been formed and is currently gathering information to assist them in their discussions.

DEP Delegation

EPC Legal Department has substantially drafted the language for the delegation agreement. Bob Stetler will be preparing the delegation application. DEP has published a Notice of Rule Change to allow them to grant EPC delegation. This starts the time clock on the process.

Process Audit

Staff met with the Office of the Internal Performance Auditor to discuss the scope of work. The audit is ongoing. Bob Stetler is to receive a briefing from the audit team every Friday afternoon. The auditors are scheduled to facilitate a two day workshop with EPC and PGMD staff on November 19 and 20, 2007 to identify and prioritize issues and recommend actions for positive change. A final report is to be delivered to the Board December 13, 2007.

Public Works Agreement

Staff met with Public Works twice to discuss the content of the agreement. As of October 30, 2007, draft language has been prepared and is currently being reviewed by staff. The agreement authorizes Public Works and Roads and Streets Maintenance to conduct certain cleaning and maintenance activities within wetlands without having to obtain individual approvals for each individual project.

SWFWMD MOU Review

Staff has met with Russel Martin, Senior Scientist at SWFWMD to review the existing MOU. Changes have been made to clarify language. An internal study is now ongoing to determine if EPC is complying with all of the terms of the MOU.

On Going SWFWMD Coordination

Staff is now attending regularly scheduled monthly Senior Management meetings with SWFWMD. Currently, the main topics of discussion at these meetings are coordination and consistency on UMAM and wetland delineations. Staff is also attending all monthly coordination meetings on AGSWM.

ACOE Contract

Staff has obtained a copy of the ACOE contract with Pinellas County and is currently reviewing it for applicability. -38-

Wetlands Hybrid Project Timeline

Project Start Date: 8/16/2007
 Today's Date: 11/6/2007

Project Name	Responsible Party	Estimated Finish	Days Left until Completion	Description	
1 Board gives direction	Garrity	26-Jul-07	Completed	X	Sets public hearing for August 16th to amend Ch 1-11
2 Designate Wetlands Ombudsman	Garrity	27-Jul-07	Completed	X	Christine Bryant selected as Ombudsman
3 Budget submitted - FTE cuts	Koulianos	27-Jul-07	Completed	X	5 FTEs cut in Wetlands Division
4 Request assistance from Auditor	Garrity	30-Jul-07	Completed	X	Request assistance from Internal Performance Auditor
5 Host technical rule workshops	Garrity	10-Aug-07	Completed	X	Meet w/ CEAC & Stakeholders
6 Revised Ch. 1-11 presented to Board	Garrity	16-Aug-07	Completed	X	Bring revised Ch 1-11 to EPC Board for Approval
7 First meeting with Int. Auditor	Team	24-Aug-07	Completed	X	
8 WMD MOU Review	Tschantz	24-Aug-07	Completed	X	Draft letter re WMD audit help
9 Technical Advisory Group	Stetler	30-Aug-07	Completed	X	Compile Initial TAC
10 Ombudsman Desc	Stetler	30-Aug-07	Completed	X	Ombudsman Job Description
11 Tampa Port Authority Delegation	Zodrow	20-Sep-07	Completed	X	Accept TPA delegation; target date
12 Process Review w/ Auditor (update)	Koulianos	20-Sep-07	Completed	X	
13 Stakeholders Advisory Group	Tschantz	20-Sep-07	Completed	X	
14 Milestones for year	Zodrow	20-Sep-07	Completed	X	
15 Request auth. to conduct fee study	Koulianos	20-Sep-07	Completed	X	
16 Agriculture Draft Rule	Zodrow	20-Sep-07	Completed	X	
17 Online Application Forms	DeLeeuw	30-Sep-07	Completed	X	Forms - Mangrove, Exemption, Misc./Post Online
18 Online Application Committee	DeLeeuw/Stetler	30-Sep-07	Completed	X	Form Committee w/ Stetler, Sinko, Nassar, Schlipfer
19 New Wetlands Measurements	Stetler	18-Oct-07	Completed	X	
20 Agriculture rule public hearing	Zodrow	15-Nov-07	-		
21 Quarterly Report to Board	Garrity	15-Nov-07	Completed	X	Presented to Board at Nov EPC Meeting
22 Public Works Agreement Draft	Stetler	15-Nov-07	Completed	X	Draft under review for finalization
23 Modify Record Keeping	Stetler	1-Dec-07	25		
24 Staff Review of EPC/WMD MOU	Stetler	13-Dec-07	37		
25 DEP Delegation	Stetler	13-Dec-07	37		Bring update and delegation submittal to EPC Board
26 ACOE Agreement	Stetler	13-Dec-07	37		Bring ACOE agreement submittal to EPC Board
27 Process Review Update to Board	Koulianos	13-Dec-07	37		
28 Quarterly Report to Board	Garrity	21-Feb-08	107		
29 Applicant's Handbook	Stetler	21-Feb-08	107		
30 Phosphate Mining Coordination	Stetler	21-Feb-08	107		

Wetlands Hybrid Project Timeline

Project Start Date: 8/16/2007
 Today's Date: 11/6/2007

Project Name	Responsible Party	Estimated Finish	Days Left until Completion	<input checked="" type="checkbox"/>	Description
31 Fees	Koulianos	17-Apr-08	163		
32 Quarterly Report to Board	Garity	15-May-08	191		
33 ACOE Agreement	Stetler	15-May-08	191		ACOE Agreement target date
34 DEP Delegation	Stetler	15-May-08	191		DEP delegation target date
35 Basis of Review; Reasonable Use Guidelines	Stetler	15-May-08	191		Classification/Enhanced Mitigation (NEB)
36 Mitigation Banking	Stetler	15-May-08	191		Basis of Service
37 Wetland Review Timeframes by Rule	Tschantz	15-May-08	191		
38 Annual Report to Board	Garity	21-Aug-08	289		
39 Dev. Review Committee	Stetler	Continuous	-		



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Legislation – 2007 Local Bills No.'s 1, 3 and 4

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Legal Department

Recommendation: Authorize staff to speak in opposition to proposed 2007 Local Bill #4 at the December 7, 2007 Hillsborough County Legislative Delegation Meeting. Accept information regarding Local Bills number 1 and 4.

Brief Summary: Local Bill #4 was filed with the Local Legislative Delegation on December 7, 2007. The proposed bill preempts the authority of the EPC to regulate agriculture beyond the requirements of s. 373.406, F.S. Staff will seek the Commission's authorization to speak in opposition to proposed 2007 Local Bill #4 at the December 7, 2007 Hillsborough County Legislative Delegation Meeting. Staff will also inform the Commission of the content of Local Bills #'s 1 and 3 regarding the governance of the Commission for information only.

Financial Impact: No Financial Impact.

List of Attachments: Local Bill #1-Governance of Three Special Act Agencies
Local Bill #3-Hillsborough County EPC (countywide)
Local Bill #4-Hillsborough EPC agricultural lands

01

Date Received: _____
Local Bill No.: _____

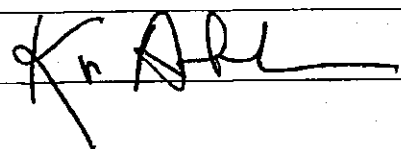
**HILLSBOROUGH COUNTY LEGISLATIVE DELEGATION
EXPLANATORY MEMORANDUM
PROPOSED LOCAL LEGISLATION**

Attach a copy of Explanatory Memorandum and Economic Impact Statement form to the face of your local bill, then run and submit 35 copies, including the forms with original signatures. See additional instructions relating to electronic filing at the end of the form.

I. Authority/Individual Submitting Proposed Legislation:

- A. Name of Applicant: Rep. Kevin Ambler
- B. Contact: Jenna Labadie
- C. Address: 3820 Northdale Blvd., Suite 301-A, Tampa, FL 33624-1865
- D. Telephone: 813-558-1333 E-Mail: jenna.labadie@myfloridahouse.gov
- E. Bill Prepared by/Telephone: Candace Hundley, 813-272-5865
- F. Explanatory Memorandum Prepared by/Telephone: Same
E-Mail: hundleyc@hillsboroughcounty.org

II. Signature of Delegation Member Sponsoring Proposal:

Senator¹ _____ District No. _____
 OR
 Representative²:  District No. 47

III. Summary Title:

Hillsborough County: governance of the Hillsborough County Environmental Protection Commission and City-County Planning Commission and the Tampa Sports Authority

IV. Current Situation:

There are inequities in the representation on the governing bodies of the Hillsborough County Environmental Protection Commission, the Hillsborough County City-County Planning Commission, and the Tampa Sports Authority, each of which are created by special act of the Legislature.

The population of the county is as follows:

¹ Original signature required.
² Original signature required.

LOCAL GOV'T.	% POPULATION
Unincorporated Hillsborough	66.8
City of Tampa	28.4
City of Temple Terrace	2
City of Plant City	2.8
Total	100%

The current governance is as follows for each of the entities:

GOVERNMENT	EPC		PLANNING		SPORTS	
	Members	Percent	Members	Percent	Members	Percent
Uninc. Hillsborough	7	100	4	40	4 + 1 ³	45.45
Tampa	0		4	40	4 + 1 ⁴	45.45
Temple Terrace	0		1	10		
Plant City	0		1	10		
Governor	0		0		1	9.1
Total	7	100%	10	100%	11	100%

The revenue stream to the EPC (FY 2006) is:

REVENUE SOURCE	AMOUNT	%
Fees	\$3,202,347	17
Grants, Contracts and other Funds	6,171,018	44
Countywide General Revenue	6,833,519	39
TOTAL	\$16,206,884	100%

The revenue stream to the Planning Commission is:

REVENUE SOURCE	FY 08 Projected	%
Fees Collected	\$155,500	3%
Countywide General Revenue	\$5,904,262	85.13
TOTAL	\$6,904,262	100%

³ One of the four is an elected member of the BOCC who has the same full membership in every respect, including voting rights

⁴ One of the four is an elected member of the Tampa City Council who has the same full membership in every respect, including voting rights

EPC and The Planning Commission also utilize the county's human resources and procurement services departments and provides office space with supporting services to maintain the building.

The **Tampa Sports Authority (TSA)** funding revolves around a very different financial issue. While TSA is an independent special district and designed to be entrepreneurial and self-sustaining in nature, the City of Tampa and Hillsborough County must underwrite any shortfalls, with the City bearing 33.33% and the County bearing 66.67% of that cost (in 2006, \$1,018,060 and \$2,036,119 respectively). In addition, the BOCC supports a total of \$252 in bonds on behalf of the Sports Authority (for the Stadium, \$160,135,000 issued; \$116,050,000 outstanding).

As background information and pursuant to information provided by Peggy Hamric, Manager, Technical Services Section, Hillsborough County Real Estate Department, the City of Tampa acquired the land where the Raymond James Stadium is cited, along with number other parcels, from the U.S. Government in 1949 for \$70,200, half the value of all properties being conveyed, provided it was used for park and recreational purposes for 20 years. The parcels also include Al Lopez Park and Skyway Park (and other land in that area including a golf course parcel on Memorial Highway).

V. Effect of Proposed Changes: Enactment of the proposed bill would create boards as configured below.

GOVERNMENT	EPC		PLANNING		SPORTS	
	Members	Percent	Members	Percent	Members	Percent
Unincorporated Hillsborough	5	55.56	5	45.50	4 + 2 ⁵	54.54
Tampa	2	22.22	4	36.50	3 + 1 ⁶	36.37
Temple Terrace	1	11.11	1	9.0		
Plant City	1	11.11	1	9.0		
Governor					1	9
Total	9	100%	11	100%	11	100%

VI. Fiscal Analysis & Economic Impact Statement: Attached as House Local Government Committee Fiscal Impact Statement.

VII. Other

A. Constitutional Issues: None known

1. Applicability of Municipality/County Mandates Provisions: None known

⁵ Two of the five are elected members of the BOCC who have the same full membership in every respect, including voting rights.

⁶ One of the four is an elected member of the Tampa City Council who has the same full membership in every respect, including voting rights

2. Other None Known

B. Rule Making Authority: None known

VII. Drafting Issues or Other Comments.

The efficacy of drafting the proposed bill as attached is readily apparent inasmuch as the subject area is fair representation on the governing bodies of three special act agencies in Hillsborough County.

House Committee on Community Affairs

2008 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is files.

BILL#: _____
SPONSOR(S): _____
RELATING TO: Hillsborough County: governance of three special act agencies

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

FY 08-09 FY09-10

Expenditures: Cost of enacting a special act.

II. ANTICIPATED SOURCE(S) OF FUNDING: N/A

FY 08-09 FY09-10

Federal:

State:

Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES: N/A

FY 08-09 FY09-10

Revenues:

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Provides more equitable representation on the governing boards of the Environmental Protection Commission, the Hillsborough County City-County Planning Commission, and the Tampa Sports Authority, basing them on current population figures and the financial contribution of the county and its three municipalities as they may be included.

Disadvantages None known

Economic Impact Statement
PAGE 2

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:
None

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCE[S] OF DATA:

N/A

PREPARED BY⁷:


Candace Hundley

Date 10/9/07

TITLE: Executive Director, The Office of the Hillsborough
County Legislative Delegation on behalf of Rep. Kevin Ambler

PHONE: 813-272-5865

E-MAIL: hundleyc@hillsboroughcounty.org

⁷ Original signature required.

5 A bill to be entitled

6 An act relating to Hillsborough County and the governance
7 of the Hillsborough County Environmental Protection
8 Commission, the Hillsborough County City-County Planning
9 Commission, and the Tampa Sports Authority; amending chapter
10 84-446, Laws of Florida, relating to the Environmental Protection
11 Commission, revising the intent and purpose of the act, adding a
12 definition, restructuring the membership, providing for the manner of
13 appointment members and for the removal of existing members;
14 amending chapter 97-351, Laws of Florida, relating to the Hillsborough
15 County City-County Planning Commission, increasing the governing body
16 of the Commission by one member; amending chapter 82-306, Laws of
17 Florida, as amended, relating to The Tampa Sports Authority, revising the
18 membership of the authority; providing an effective date.
19

20 Be It Enacted by the Legislature of the State of Florida:
21

22 Section 1. Sections 2 and 4 of chapter 84-446, Lws of Florida, are amended,
23 and definition (29) of section 3 of chapter 84-446, Laws of Florida, is added to read:

24 Section 2. Declaration of legislative intent. — The Legislature finds and declares
25 that the reasonable control and regulation of activities which are causing or may
26 reasonably be expected to cause pollution or contamination of air, water, soil, and
27 property, or cause excessive and unnecessary noise may be necessary for the
28 protection and preservation of the public health, safety, and welfare. It is the intent and
29 purpose of this act to designate five members of the board of county commissioners
30 and additional members from each of the municipalities within the county as the
31 environmental protection commission of Hillsborough County to provide and maintain
32 for the citizens and visitors of said county standards which will insure the purity of all
33 waters and soils consistent with the public health and public enjoyment thereof, the
34 propagation and protection of wildlife, birds, game, fish, and other aquatic life,

1 atmospheric purity and freedom of the air from contaminants or synergistic agents
2 injurious to human, plant, or animal life, and freedom from excessive and unnecessary
3 noise which unreasonably interferes with the comfortable enjoyment of life or property
4 or the conduct of business.

5 Section 3. Definitions.—As used in this act and ~~said rules~~ adopted by the
6 commission and regulations, the following words and phrases shall have the following
7 meanings, unless some other meaning is plainly indicated.

8 (29) "Municipality" means a municipality created pursuant to general or special
9 law authorized or reorganized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

10 Section 4. Creation of Hillsborough County Environmental Protection
11 Commission—The Environmental Protection Commission is hereby created and
12 established. The commission shall consist of 9 members, including 5 members from
13 the board, appointed by the board; 2 members from the City Council of the City of
14 Tampa, appointed by the council; 1 member from the City Commission of the City of
15 Plant City, appointed by the city commission; and 1 member from the City Council of the
16 City of Temple Terrace, appointed by the council. ~~the duly elected members of the~~
17 ~~Hillsborough County Board of County Commissioners.~~ Each governing body shall also
18 appoint an alternate member to the commission who shall serve during the absence of
19 any regular member. All members of the board on July 1, 2008, are removed from the
20 commission and five shall then be re-appointed for initial terms in accordance with this
21 act. Each member shall serve without compensation, and the term of the office shall be
22 for a period of 2 years except that initial appointments shall be made for a term to
23 coincide with the time period remaining until the next organizational session of each
24 respective local governing body or the next date on which such appointments are
25 customarily made if not the organizational session. If a member of the commission
26 shall, for any reason, discontinue service on the governing body which made the
27 appointment, that body shall appoint another of its members to serve on the
28 commission for the remaining term of the person who has left the governing body.

29 Section 2. Paragraph (a) of subsection (1) of section 3 of chapter 97-351, Laws
30 of Florida, is amended to read:

31 Section 3. Governing body; meetings.--

32 (1) The commission will be constituted as follows:

1 (a) ~~Five Four~~ members appointed by the Board of County Commissioners of
2 Hillsborough County, with the term of the new member beginning September 30, 2008.

3 Section 3. Subsections (a) and (c) of section 3 of chapter 82-306, Laws of
4 Florida, as amended by chapter 96-520, Laws of Florida, are amended to read:

5 Section 3. MEMBERSHIP AND ORGANIZATION.

6 The Authority shall consist of a board of 11 members.

7 (a)1. ~~Three Four~~ of the members shall be residents of the City of Tampa,
8 appointed by the mayor with the concurrence of the city council, with the Mayor
9 designating the city-appointed member who will be eliminated on July 1, 2008, or by a
10 drawing of straws by the city appointees present at the first meeting of the authority
11 after the effective date of this act if the Mayor has not designated such member. If one
12 or more city members are absent from said first meeting, a non-city member or
13 members shall be designated by the executive director to draw said straws on behalf of
14 any absent. The member or member-designee drawing the shortest straw shall then be
15 eliminated from the membership of the authority.

16 2. Four of the members shall be residents of Hillsborough County, except that
17 any member appointed after June 30, 2008, shall be a resident of unincorporated
18 Hillsborough County, appointed by the board of county commissioners.

19 3. One of the members shall be a resident of Hillsborough County, and
20 appointed by the Governor.

21 (c) ~~Three Two~~ members shall be the following ex officio members who shall
22 have the same full membership in every respect, including voting rights, as each of the
23 other eight nine members: A member of the city council of the City of Tampa, to be
24 designated by it; and two members a member of the board of county commissioners of
25 Hillsborough County, to be designated by it, with the new position being filled as soon
26 after July 1, 2008, as practicable by a member of the board of county commissioners;
27 to be designated by it.

28 Section 4. This act shall take effect July 1, 2008.

03

Draft 06
Revised 11/1/07

Date Received: _____
Local Bill No. _____

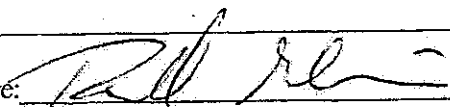
**HILLSBOROUGH COUNTY LEGISLATIVE DELEGATION
EXPLANATORY MEMORANDUM
PROPOSED LOCAL LEGISLATION**

Attach a copy of Explanatory Memorandum and Economic Impact Statement form to the face of your local bill, then run and submit 35 copies, including the forms with original signatures. See additional instructions relating to electronic filing at the end of the form.

I. Authority/Individual Submitting Proposed Legislation:

- A. Name of Applicant: Mary Mulhern, Tampa City Council, District 2
- B. Contact: Mary Mulhern, Tampa City Council, District 2
- C. Address: City Hall Plaza, Tampa, FL 33602
- D. Telephone: 813-274-7071 E-Mail: Mary.Mulhern@tampagov.net
- E. Bill Prepared by/Telephone: Candace Hundley, 813-272-5865,
hundleyc@hillsboroughcounty.org
- F. Explanatory Memorandum Prepared by/Telephone: Same as Bill

II. Signature of Delegation Member Sponsoring Proposal:

Senator: _____ District No. _____
 OR
 Representative:  District No. 62

III. Summary Title:

Hillsborough County Environmental Protection Commission (EPC): restructuring Membership (i.e., the governing body for the EPC).

IV. Current Situation:

The Hillsborough County Environmental Protection Commission (EPC) (see ch. 84-446, Laws of Florida, as amended) has regulatory powers relating to "activities which are causing or may reasonably be expected to cause pollution or contamination of air, water, soil, and property, or cause excessive and unnecessary notice may be necessary for the protection and preservation of the public health, safety, and welfare" of the residents of Hillsborough County.

The regulatory power relating to waters has been construed to include wetlands, and there is a significant and powerful lobby which, over many years, has worked to weaken



(or preferably, eliminate) wetlands regulations which include higher standards than those used by the State of Florida¹.

Furthermore, Hillsborough County's primary water resource is the Hillsborough River which runs through Tampa, Temple Terrace, and portions of unincorporated Hillsborough County. Each of the cities also have wetlands which are vital to the replenishment of the water supply.

The governing body is currently made up of the members of the Hillsborough County Board of County Commissioners (BOCC) which is transformed into the governing body of the EPC at official EPC meetings. While it appears that every member of the BOCC represents the municipalities (Tampa, Temple Terrace, and Plant City), all or in part, there is no direct input from members of the governing bodies of those municipalities. The municipalities have significant interest in the protection of the air, water, soil, property, and reduction of excessive noise although most recently the focus has been on our water supply.

The EPC was recently and again threatened with abolishment of its wetlands division (although a weakened rule was ultimately adopted) with the elected officials of the municipalities standing by powerless in voting on issues that come before the EPC while being significantly affected by its actions.

The population of the county, as of April 1, 2007, is 1,204,770 with 804,340 people in unincorporated Hillsborough (66.8%); 342,100 people in the City of Tampa (28.4%), 24,080 people in the City of Temple Terrace (2%); and 34,250 people in the City of Plant City (2.8%).

The revenue stream to the EPC is:

REVENUE SOURCE	AMOUNT	%
Fees	\$3,202,347	17
Grants, Contracts and other Funds	6,171,018	44
Countywide General Revenue	6,833,519	39
TOTAL	\$16,206,884	100%

The Countywide General Revenue is collected across the board (i.e., from residents in the municipalities and in unincorporated Hillsborough), yet, with a combined population of 33.5%, the elected officials of the municipalities have no voice in setting policy at the EPC.

V. Effect of Proposed Changes

¹ The State (locally through the Southwest Florida Water Management District or SWFWMD) does not regulate at a half acre or less unless there are clearly threatened and endangered species using that wetland. If a wetland is "isolated" but connected to other surface water, the State will look at that relationship. In Hillsborough County, 20 percent of its wetlands are a half acre or less; these wetlands are protected solely because of EPC's rules. Otherwise, the State and EPC follow precise rules (FAC 62-340) in identifying the delineation of a wetland as defined in general law; however, the State and EPC regulations differ considerably on the allowance of impact to wetlands. State law permits local government to administer stricter standards.

The restructuring for the EPC would create a 9 member board with 4 members appointed by the BOCC, 3 by Tampa City Council, and 1 each by the Temple Terrace City Council and the Plant City City Commission.

Restructuring the governing body would give the municipalities a voice in setting policy at the EPC. The restructure would create a board as follows:

LOCAL GOV'T.	% POPULATION	% GOVERNANCE
Unincorporated Hillsborough	66.8	44.44
City of Tampa	28.4	33.34
City of Temple Terrace	2	11.11
City of Plant City	2.8	11.11
Total	100%	100%

The residents of the municipalities are contributing approximately one-third of the countywide general revenue (approximately \$2,289,228 based on population figures) and would have a direct voice in the governance of the EPC with the adoption of the proposed amendment.

VI. Fiscal Analysis & Economic Impact Statement: Attached as House Local Government Committee Fiscal Impact Statement.

VII. Other

A. Constitutional Issues: None known. The EPC is, however, referenced in section 9.10 of the Hillsborough County charter which states: There shall be for Hillsborough County and its municipalities, a single local environmental protection commission created by such special law or laws which need not be approved by referendum.

1. Applicability of Municipality/County Mandates Provisions: None Known

2. Other None Known

B. Rule Making Authority: Yes, but not under the auspices of Chapter 120, Florida Statutes.

VII. Drafting Issues or Other Comments. The EPC was last codified in 1984. After an extensive number of public hearings, another codification was prepared in 1998 to which the Delegation added several technical and substantive changes, one of which would have clarified that EPC's jurisdiction over wetlands. The bill was filed (HB 4087) but ultimately died in the Committee on Environmental Protection when the chair advised there was insufficient time to hear and vet the bill. Candace Hundley, Hillsborough County Legislative Delegation.

House Committee on Community Affairs

2008 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL#:

SPONSOR(S):
RELATING TO

Rich Glorioso, Dist 62
Hillsborough County Environmental Protection Commission (countywide)

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

FY 08-09 FY09-10

Expenditures:

Costs associated with the enactment of a local bill.

II. ANTICIPATED SOURCE(S) OF FUNDING:

FY 08-09 FY09-10

Federal:

EPC's revenue stream is as follows: Fees, \$3,202,347 ;
Grants, Contracts and other Funds, \$6,171,018;
Countywide General Revenue, \$6,833,884

State:

Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

FY 08-09 FY09-10

Revenues:

N/A N/A

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: Enactment of the proposal would enable the municipalities to have direct policy-making authority on a board which regulates environmental issues within each of those municipalities boundaries.

Disadvantages None known.

Disadvantages None known.

**Economic Impact Statement
PAGE 2**

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None known.

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCE[S] OF DATA:

Revenue stream provided by Joan Ohman, budget director for the Hillsborough County Environmental Protection Commission.

PREPARED BY¹:


Candace Hundley

Date: 10/07/01

TITLE: Executive Director

REPRESENTING: The Office of the Hillsborough County
Legislative Delegation

PHONE: 813-272-5865

E-MAIL: hundleyc@hillsboroughcounty.org

¹ Original signature required.

2 A bill to be entitled

3 An act relating to Hillsborough County; amending
4 chapter 84-446, Laws of Florida, as amended,
5 relating to the Environmental Protection Commission;
6 revising the intent and purpose of the act; adding
7 a definition; restructuring the membership of the
8 commission; providing the manner of
9 appointing members; providing for removal
10 from office of existing members; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13 Section 1. Section 2 of chapter 84-446, Laws of Florida, is amended to read:

14 Section 2. Declaration of legislative intent. –The Legislature finds and declares
15 that the reasonable control and regulation of activities which are causing or may
16 reasonably be expected to cause pollution or contamination of air, water, soil, and
17 property, or cause excessive and unnecessary noise may be necessary for the
18 protection and preservation of the public health, safety, and welfare. It is the intent and
19 purpose of this act to designate four members of the board of county commissioners
20 and additional members from each of the municipalities within the county as the
21 environmental protection commission of Hillsborough County to provide and maintain
22 for the citizens and visitors of said county standards which will insure the purity of all
23 waters and soils consistent with the public health and public enjoyment thereof, the
24 propagation and protection of wildlife, birds, game, fish, and other aquatic life,
25 atmospheric purity and freedom of the air from contaminants or synergistic agents
26 injurious to human, plant, or animal life, and freedom from excessive and unnecessary
27 noise which unreasonably interferes with the comfortable enjoyment of life or property
28 or the conduct of business.

29 Section 2. Section 3 of chapter 84-446, as amended, is amended to add a
30 definition:

1 Section 3. Definitions.—As used in this act and ~~said-rules~~ adopted by the
2 commission and regulations, the following words and phrases shall have the following
3 meanings, unless some other meaning is plainly indicated.

4 (29) "Municipality" means a municipality created pursuant to general or special
5 law authorized or reorganized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

6 Section 3. Section 4 of chapter 84-446, Laws of Florida, is amended to read:

7 Section 4. Creation of Hillsborough County Environmental Protection

8 Commission—The Environmental Protection Commission is hereby created and
9 established. The commission shall consist of 9 members, including 4 members from
10 the board, appointed by the board; 3 members from the City Council of the City of
11 Tampa, appointed by the council; 1 member from the City Commission of the City of
12 Plant City, appointed by the city commission; and 1 member from the City Council of the
13 City of Temple Terrace, appointed by the council. ~~the duly-elected members of the~~
14 Hillsborough County Board of County Commissioners. Each governing body shall also
15 appoint an alternate member to the commission who shall serve during the absence of
16 any regular member. All members of the board on October 1, 2008, are removed from
17 the commission and four shall then be re-appointed for initial terms in accordance with
18 this act. Each member shall serve without compensation, and the term of the office
19 shall be for a period of 2 years except that initial appointments shall be made for a term
20 to coincide with the time period remaining until the next organizational session of each
21 respective local governing body or the next date on which such appointments are
22 customarily made if not the organizational session. If a member of the commission
23 shall, for any reason, discontinue service on the governing body which made the
24 appointment, that body shall appoint another of its members to serve on the
25 commission for the remaining term of the person who has left the governing body.

26 Section 4. This act shall take effect October 1, 2008.

04

Date Received: _____
Local Bill No. _____

**HILLSBOROUGH COUNTY LEGISLATIVE DELEGATION
EXPLANATORY MEMORANDUM
PROPOSED LOCAL LEGISLATION**

Attach a copy of Explanatory Memorandum and Economic Impact Statement form to the face of your local bill, then run and submit 35 copies, including the forms with original signatures. See additional instructions relating to electronic filing at the end of the form.

I. Authority/Individual Submitting Proposed Legislation:

- A. Name of Applicant: Mr. Hugh Gramling
- B. Contact: Tampa Bay Wholesale Growers Association
- C. Address: 1311 S Parsons Ave. Seffner, Florida 33584
- D. Telephone: (813) 615-1914 E-Mail: hgramling@tbwg.org
- E. Bill Prepared by/Telephone: Candace Hundley, 813-272-5865
- F. Explanatory Memorandum Prepared by/Telephone: Same
E-Mail: hundleyc@hillsboroughcounty.org

II. Signature of Delegation Member Sponsoring Proposal:

Senator¹ _____ District No. _____
 OR
 Representative²  District No. 62

III. Summary Title: Hillsborough County Environmental Protection Commission: regulation of agricultural lands.

IV. Current Situation:

The Hillsborough Environmental Protection Commission (EPC) has promulgated and is enforcing rules more stringent than state law with particular reference to s. 373.406, F.S., as it relates to exemptions to wetlands regulations to agriculture and agricultural lands. The statutory exemption allows for activities within a delineated wetland area provided the activities are: (1) for the sole and predominant purpose of agricultural operations; (2) are consistent with recognized agricultural practices; and (3) are not for the sole and predominant purpose of impounding or obstructing surface waters.

The EPC has placed a direct focus on adding additional criteria and regulatory hurdles to any agricultural activity within "delineated wetlands." EPC has issued notice of violation to

¹ Original signature required.
² Original signature required.

V

landowners engaged in agricultural activities in less than a half acre while, historically, the Southwest Florida Management District and state law have disregarded wetlands less than one acre in size.

These strict, unrealistic standards have created a regulatory loop which many agricultural landowners have neither time nor financial capacity to absorb. Repeated attempts to work with EPC to develop a practical resolution, while insuring adequate protection of Hillsborough's natural resources and creating a clear, reasonable regulatory framework for agriculture and agricultural lands, has fallen on uncompromising ears.

Hugh Gramling, Executive Director, Tampa Bay Wholesale Growers Association, has stated with regard to this matter: "We are all undeniably tied to the health and safety of our land and the environment yet we must be pragmatic in our solutions and regulatory expectations." He also noted that agriculture remains the second largest industry in the State of Florida.

V. Effect of Proposed Changes:

Enactment of the proposed legislation will allow the agriculture industry in Hillsborough to use agricultural lands in conformance with the requirements of s. 373.406, Florida Statutes, as it relates to exemptions to wetlands regulations to agriculture and agricultural lands, alleviating it of an undue burden while giving it parity with every other county in the State of Florida.

VI. Fiscal Analysis & Economic Impact Statement: Attached as House Local Government Committee Fiscal Impact Statement.

VII. Other

A. Constitutional Issues: None known.

1. Applicability of Municipality/County Mandates Provisions: None known.

2. Other

B. Rule Making Authority: The EPC has rulemaking authority, but the rules are not required to be adopted in accordance with the requirements of chapter 120, Florida Statutes, the Florida Administrative Procedures Act.

VII. Drafting Issues or Other Comments. None

House Committee on Community Affairs

2008 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is files.

BILL#: _____
SPONSOR(S): _____
RELATING TO: Hillsborough County Environmental Protection Commission; agricultural lands

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:
FY 08-09 FY09-10
Expenditures: Cost of enacting a local bill

II. ANTICIPATED SOURCE(S) OF FUNDING:
FY 08-09 FY09-10
Federal: N/A
State:
Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:
FY 08-09 FY09-10
Revenues: N/A

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:
Advantages: Enactment of the proposed legislation will allow the agriculture industry in Hillsborough to use agricultural lands in conformance with the requirements of s. 373.406, Florida Statutes, as it relates to exemptions to wetlands regulations to agriculture and agricultural lands, and thereby alleviating it of an undue burden while giving the industry parity with every other county in the State of Florida. Enactment would also reduce the burden of regulation which the EPC has placed upon itself, resulting in an ability to re-direct staff and reduce costs, a significant enhancement to the agency which relies heavily on dissipating county funds for its operations.

Disadvantages: None known.

**Economic Impact Statement
PAGE 2**

**V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT:**

Not applicable

**VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDING SOURCE[S]
OF DATA:**

None required

PREPARED BY³:


Candace Hundley 10/31/07

TITLE: Executive Director

REPRESENTING: The Office of the Hillsborough County
Legislative Delegation

PHONE: 813-272-5865

E-MAIL: hundleyc@hillsboroughcounty.org

³ Original signature required.

6 A bill to be entitled

7 An act relating to Hillsborough County; amending s. 5
8 of chapter 84-446, Laws of Florida, relating to the Hillsborough
9 County Environmental Protection Commission; prohibiting
10 the commission from adopting and enforcing rules which prohibit
11 acts permitted by s. 373.406, Florida Statutes, as it relates to
12 agriculture and agricultural lands; requiring the commission to
13 review and repeal any extant rules relating to same; providing an
14 effective date.

15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (2) of section 5 of chapter 84-446, Laws of Florida,
18 is amended to read:

19 Section 5. Environmental protection commission; duties and powers.—
20 The commission ~~has~~ shall have the following duties and ~~, functions, powers, and~~
21 ~~responsibilities~~

22 (2) To adopt, revise and amend from time to time appropriate rules and
23 regulations reasonably necessary for the implementation and effective enforcement,
24 administration and interpretation of the provisions of this act and to provide for the
25 effective and continuing control and regulation of air, water and noise pollution in the
26 county within the framework of this act, and to provide for appropriate fees to be
27 charged by the commission for the services rendered under he provisions of this act.
28 No rule or amendment to a rule ~~such rules or regulations~~ shall be adopted or become
29 effective, ~~including amendments,~~ until after a public hearing has been held by the
30 commission pursuant to notice published in a newspaper of general circulation in the
31 county at least 10 days prior to the hearing, and thereafter then until the rule or
32 amendment to a rule has ~~rules and regulations have~~ been filed pursuant to law. The
33 commission may not adopt a rule that prohibits any activity authorized under s. 373.406,
34 Florida Statutes, as it relates to agriculture or agricultural lands, and the commission

1 shall review existing rules and repeal any rule that prohibits an activity authorized under
2 s. 373.406, Florida Statutes, as it relates to agriculture and agricultural lands.

3 Section 2. This act shall take effect upon becoming a law.

12
13

16
17
18



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Consumer Fertilizer Rule Implementation Update

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Environmental Resources Management

Recommendation: Informational Report

Brief Summary: Staff will provide brief update on recent developments concerning state-wide regulation of consumer fertilizers and plans underway at EPC to assist and facilitate the implementation of this state-wide program.

Financial Impact: Information Item, No Financial Impact at present.

Background: At the direction of former Governor Bush, the Florida Department of Agriculture and Consumer Services (FDACS) was to revise fertilizer content standards (reduce nitrogen and phosphorus) for use in "consumer/urban turf" settings. These new rules were to be developed in cooperation with manufacturers and the Institute of Food and Agricultural Science (IFAS). The Urban Turf Fertilizer Rule was promulgated on August 30, 2007, with an effective date of December 31, 2007.

The new rule will introduce re-formulated fertilizers for consumer/urban turf usage, will include distinctive labeling and directions for use. These measures will protect water quality by improved labeling and with a goal of restricting phosphorus and nitrogen application rates for urban turf and lawns.

Concurrently, on July 1, 2007, the Florida Legislature took action to empower a Florida Consumer Fertilizer Task Force. The Task Force is comprised of thirteen appointed members representing local governments, fertilizer industry, water management districts, FDACS, IFAS, and the environmental community. The Task Force is holding a series of six workshops around the state, and will present a final report on the implementation of the model consumer fertilizer urban turf rule to the Legislature on January 15, 2008.

EPC Staff is actively engaged with local stakeholders and is organizing an action plan to facilitate the implementation of the state-wide rule. Details will be addressed at the board meeting.

List of Attachments: FDACS Summary

Urban Turf Fertilizer Rule

By Dale W. Dubberly

At the direction of former Governor Bush, the South Florida Water Management District and the Florida Department of Environmental Protection developed the Lake Okeechobee and Estuary Recovery Plan. FDACS was to revise fertilizer content standards for use in urban settings in cooperation with manufacturers and IFAS. The new rule will require that all fertilizer products labeled for use on urban turf or lawns and sports turf be limited to the amount of nitrogen and phosphorous available to support healthy turf maintenance. The rule will protect water quality by restricting phosphorous and nitrogen application rates in fertilizers for urban turf and lawns.

"We are committed to protecting Florida's water resources. By establishing responsible nitrogen and phosphorus use rates statewide, Florida's citizens can continue to care for their lawns and landscapes without sacrificing water quality."

*Florida Department of Agriculture and Consumer Services (FDACS) Commissioner
Charles H. Bronson*

Definitions

1. **"Urban Turf" or "Lawns"** – non-agricultural land planted in closely mowed, managed grasses except golf courses, parks & athletic fields.
2. **"Sports Turf"** – non-agricultural land planted exclusively for golf courses, parks & athletic fields.
3. **"No Phosphate Fertilizer"** – fertilizer products with phosphate levels below 0.5% intended for established urban turf or lawns.
4. **"Low Phosphate Fertilizer"** – fertilizer products intended for new or established urban turf or lawns, with phosphate levels equal to or above 0.5% & shall have use directions that do not exceed 0.25lbs P₂O₅ per 1000ft².
5. **"Starter Fertilizer"** – fertilizer formulated for a one-time application at planting or near that time to encourage root growth & enhance the initial establishment.
6. **"Established Urban Turf"** – urban turf older than 12 months.
7. **"New Urban Turf"** – turf older than 12 months.

Q & A

General

Q- What is the effective date of the rule?

A- December 31, 2007. However, fertilizer licenses will have until July 1, 2009 to change labels for compliance.

Q- Will products in the channels of trade after July 1, 2009 be allowed to be sold?

A- Yes, existing stock in the marketplace will be allowed to be sold at the retail level, provided they were shipped to the retail outlet prior to July 1. Products shipped after July 1, 2009 will be stop-saled.

Q- Who will enforce the Urban Turf Rule?

A- The Florida Department of Agriculture & Consumer Services.

Q- Will Specialty Fertilizers labeled for turf or lawns shall have directions for use?

A- Yes.

- *Phosphate:* A maximum of 0.25 lbs P₂O₅ / 1000 ft² per application & not exceed 0.5 lbs P₂O₅ / 1000 ft² per year. Application rates above these levels would require a soil sample of the application site to justify an increase in P₂O₅.

- **Nitrogen:** A maximum of 0.7 lbs of readily available nitrogen per 1000 ft² at any one time based on the soluble fraction of nitrogen formulated in the fertilizer. A maximum of 1 lb total (N) per 1000 ft² to be applied at any one time, not exceeding the annual nitrogen recommendations in the Fertilizer Guidelines for Established Turf Grass Lawns in Three Regions of Florida. Application rates above these levels would require a turf tissue test at the application site to justify the increase in (N).

**Fertilization Guidelines for Established Turfgrass
Lawns in Three Regions of Florida***
Nitrogen Recommendations
(lbs N / 1000 ft² / year)

Species	North	Central	South
Bahia grass	2-3	2-4	2-4
Bermuda grass	3-5	4-6	5-7
Centipede grass	1-2	2-3	2-3
St. Augustine grass	2-4	2-5	4-6
Zoysia grass	3-5	3-6	4-6

* North Florida is north of Ocala. Central Florida is defined as south of Ocala to a line extending from Vero Beach to Tampa. South Florida includes the remaining southern portion of the state.

- Q- When will analytical testing begin to evaluate fertilizer products for compliance with this rule change?**
- A- For those products whose label(s) currently meet the proposed changes, testing will begin the effective date of the rule change. Fertilizer licensees have 1 ½ years after the effective date of the rule change to bring their products into compliance & clear their existing stock from the channels of trade. As product labels are revised & brought into compliance, then those products will be analyzed & evaluated for conformity.
- Q- Will fertilizer / pesticide combination products create any issues with the EPA?**
- A- No. The environmental caution statement is the same labeling requirement for EPA, as well as the Florida

Urban Turf Rule.

Q- Does the Urban Turf Rule apply to products used for Landscape & Ornamental applications?

- A- No. If "TURF" is expressed on the label of the product being offered for sale, the Urban Turf Rule would apply.

Homeowner's Lawn Fertilizer

Q- What impact will the rule have on the fertilizer products I use on my lawn?

- A- The rule will require the directions for use to limit the amount of phosphate & nitrogen you can apply in a single application & per year.

Q- What about lawn fertilizers labeled for use as starter fertilizer?

- A- These products are intended for a one-time application at planting to encourage root growth & shall have directions for use that do not exceed an application rate of 1.0 lb of P₂O₅ / 1000 ft².

Q- Will there be any major changes to product labels?

- A- Yes. Prominently displayed on the front of the bag there shall be a statement showing the maximum coverage area stated in square feet. *Example: This bag covers 5000 sq. ft.* It will also require the following precautionary statement: "Do not apply near water, storm drains or drainage ditches. Do not apply if heavy rain is expected. Apply this product only to your lawn / garden, and sweep any product that lands on the driveway, sidewalk, or street, back onto your lawn / garden."

Sports Turf

Q- Would fertilizer intended for use on sports turf require directions for use for phosphate & nitrogen?

- A- Yes. They must be consistent with the direction for use on home owner's lawns, unless the documents SL191, "Recommendations for N,P,K & Mg for Golf Course & Athletic Field Fertilization Base on Mehlich I Extractant" (<http://edis.ifas.ufl.edu/SS404>) or "BMP's

for Enhancement of Environmental Quality on Florida's Golf Courses" (<http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/gfbmp07.pdf>) are referenced on the product label or shipping documents.

Urban Turf

Q- Would fertilizers used on urban turf by Lawn Maintenance companies be required to have directions for use that limit the application of phosphate & nitrogen?

A- Yes.

They must be consistent for use on home owner's lawns unless the document titled "Best Management Practices for Protection of Water Resources in Florida, June 2002, Florida Green Industries" are referenced on the label. Copies may be obtained from DEP at http://www.dep.state.fl.us/central/Home/MeetingsTraining/FLGreen/BMP_Book_final.pdf.

For further information about the Urban Turf Fertilizer Rule, please contact Bill Cox at (850) 487-2085.

Or visit our website at www.FLAES.org



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Ford Amphitheatre Update

Consent Agenda _____ **Regular Agenda** **Public Hearing** _____

Division: Air Management Division

Recommendation: Informational Report

Brief Summary: This is a staff report on the status of noise issues at the Ford Amphitheatre after one season with the sound wall and other improvements in place.

Financial Impact: No Financial Impact

Background: The Ford Amphitheatre completed construction of its sound wall in February 2007 and has held 30 concerts to date at the venue this concert season. While the number of concerts at the Amphitheatre has been fairly consistent since its opening in 2004, the number of complaints has dropped significantly. The measures implemented by Live Nation to reduce the impact of the Amphitheatre on surrounding communities have been successful, and EPC staff continues to work with Live Nation on these issues.

As part of our rule revision process, EPC staff has begun to work on revisions to Ch. 1-10, Noise, and we will provide the Board with periodic updates.

List of Attachments: None



EPC Agenda Item Cover Sheet

Date of EPC Meeting: November 15, 2007

Subject: Direct Inspect Program

Consent Agenda _____ **Regular Agenda** X **Public Hearing** _____

Division: Waste Management Division

Recommendation: Informational Report

Brief Summary: The Direct Inspect Program was conducted to determine whether or not the number of field inspections could be increased by creating a virtual office in staffs' assigned automobile and by allowing staff to leave directly from home to the field. New technology was incorporated and evaluated for increased accuracy and efficiency.

Financial Impact: \$6,800 used from FDEP grant with no financial impact to the general fund.

Background: The Direct Inspect Program was conducted over a 4 month period. Two inspectors from the Small Quantity Generator Program were chosen to participate. They were required to come to the office at least one day a week. In addition to leaving from home, the inspectors' county vehicles were outfitted with wireless technology to further increase accuracy and efficiency of work products. The pilot project demonstrated a 43% increase in inspections performed.



EPC Agenda Item Cover Sheet

Date of EPC Meeting: NOV 15, 2007

Subject: Old Landfill Investigation Program Progress Status Report

Consent Agenda **Regular Agenda** X **Public Hearing**

Division: Waste Management Division

Recommendation:

No staff recommendations. Provided to the Board for informational purposes only.

Brief Summary:

Staff is providing a brief summary of activities and accomplishments related to the tracking of known historic solid waste disposal areas (old landfills) located throughout Hillsborough County.

Background:

Since the summer of 2005, and in accordance with the Board's instruction and approval, staff have developed and implemented an old landfill investigation program within the EPC's Waste Management Division. The purpose of the program is the completion of detailed environmental investigations at the historic solid waste disposal sites known to exist throughout Hillsborough County and the dissemination and sharing of related information.

Currently, the EPC maintains a listing of 170 known historic waste disposal sites. Of that number, 100 of the sites are not currently included as the subjects of other State or local investigative or tracking programs and it is those 100 sites that are the primary focus of the EPC's program.

The program's accomplishments to date as relate to the 100 target sites include the completion of detailed Phase I investigations comprising comprehensive records research, site inspections, and community resident interviews; correction of site location information and data; detailed interactive site mapping; numeric site ranking based on environmental criteria; and the completion of public outreach activities which have included meetings with property owners and developers upon request and the completion of a public workshop which was held in July 2007.

In this brief presentation, staff intends to update the Board with regard to the completed program activities.